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C.M.A.No.2394 of 2019

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 20.09.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2394 of 2019

Muthu

... Appellant/Petitioner

Vs.

1.Sakthivel

2.The National Insurance Company Limited,
D.O.2, 11-289, Ramakrishna Road,
Salem – 636 007.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 12.12.2018 in M.C.O.P.No.134 of 2014 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Tiruchengode.

For Appellant : Mr.C.Paraneedharan

For Respondents : Mr.D.Bhaskaran for R2
R1 – served - No appearance



C.M.A.No.2394 of 2019

WEB COPY

JUDGMENT

The petitioner before the learned Subordinate Judge, Motor Accidents Claims Tribunal, Tiruchengode in M.C.O.P.No.134 of 2014 is the appellant herein. The parties are referred to in the same rank and array as before the trial Court.

2.The petitioner had filed the above claim petition claiming compensation of a sum of Rs.15 lakhs for the injuries sustained by him in a road accident on 13.12.2013 involving a Hero Honda, bearing Registration No.TN 30AU 3484 belonging to the 1st respondent and insured with the 2nd respondent.

3.The Insurance Company had denied the accident and contended that the petitioner should strictly prove the age, avocation and income. They had also taken out a plea that initially in the First Information



C.M.A.No.2394 of 2019

Report the vehicle has not been mentioned and thereafter, the vehicle of the 1st respondent has been included.

4.Be that as it may, the Tribunal after holding that the accident occurred only on account of the rash and negligent of the 1st respondent vehicle had awarded a compensation of Rs.1,76,779/-. Challenging the said Award, the appellants are before this Court.

5.Heard the learned counsel appearing on either side and perused the papers.

6.It is stated that by reason of the accident, the claimant had suffered a fracture femur left, fracture of the left humerus for which implants had been done and the petitioner has been treated as inpatient for the fourteen days from 14.12.2013 to 28.12.2013 in the LKM Hospital. On account of the injuries, the petitioner as an agricultural coolie has not gone to work for nearly four months. The disability has



also been assessed as 30%. For calculating the loss of earning during the period of treatment the monthly income has been taken as Rs.7,500/- and a sum of Rs.30,000/- (Rs.7,500/- x 4 = Rs.30,000/-) is awarded for the loss of earning during treatment. That apart, no amounts have been granted under the head of attendant charges, loss of amenities, transportation expenses, etc., A sum of Rs.10,000/- each is awarded under these heads. In all other respects, the Award remains unaltered. Therefore, taking into consideration the above aspects, the modified amount is as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Medical expenses	Rs.51,779/-	Rs.51,779/-	Confirmed
2.	Pain and sufferings	Rs.25,000/-	Rs.25,000/-	Confirmed
3.	Extra nourishment	Rs.10,000/-	Rs.10,000/-	Confirmed
4.	Disability	Rs.90,000/-	Rs.90,000/-	Confirmed
5.	Loss of earning during treatment	-	Rs.30,000/-	Enhanced
6.	Attendant charges	-	Rs.10,000/-	Enhanced
7.	Loss of amenities	-	Rs.10,000/-	Enhanced



C.M.A.No.2394 of 2019

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
8.	Transportation	-	Rs.10,000/-	Enhanced
	Total	Rs.1,76,779/- -	Rs.2,36,779/-	

7. Accordingly, this Civil Miscellaneous Appeal is allowed. The 2nd respondent/Insurance Company is directed to deposit the entire amount, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.134 of 2014 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Tiruchengode, within a period of six weeks from the date of receipt of a copy of this order, if not deposited earlier. On such deposit, the appellant is permitted to withdraw the entire award amount with proportionate accrued interest and costs, by making necessary applications.



C.M.A.No.2394 of 2019

WEB COPY The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs.

20.09.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruchengode.



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C.M.A.No.2394 of 2019

P.T. ASHA, J,

mps

C.M.A.No.2394 of 2019

20.09.2022