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C.M.A.No.2149 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.2149 of 2014

C.Muthusamy

... Appellant

vs.

1.R.Chinnappan
(Notice to R1 may be dispensed with
for the time being since he was set exparte
before Tribunal).

2.Oriental Insurance Co. Ltd.,
Branch Office, No.11, EVN Road,
Parimalam Complex II Floor,
Erode-638 011.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, as amended by Act 54 of 1994 to set aside the order dated 18.12.2012 made in M.C.O.P.No.105 of 2009 on the file of the Motor Accident Claims Tribunal, Tiruchengode.

For Appellant	: Mr.C.Kulanthaivel
For Respondents	: Mr.P.Kandasamy [R2]
	R1 – Exparte



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JUDGMENT

WEB COPY The claimant in M.C.O.P.No.105 of 2009 before the Motor Accident Claims Tribunal, Tiruchengode is the appellant herein and he has challenged the award only on the ground that the award is on the lower side.

2. Heard the learned counsel on either side.

3. The appellant has suffered a fracture and was admitted in the hospital for six days. He underwent a surgery and a steel plate was fixed. The Doctor who was examined as PW2 has assessed the disability at 42%. No reasons have been given for not considering the disability assessed by the Doctor and reducing it to 25%. Therefore, compensation awarded under the head of disability is fixed at Rs.2000/- per percentage and the disability is assessed at 42% which works out to Rs.84,000/-. Further, considering the injuries sustained it can be safely taken that the appellant would not have work for atleast minimum of six months. Since he is working as an agricultural coolie, the amount awarded under the head of loss of income for six months would be enhanced to a sum of Rs.18,000/- (6 X Rs.3000/-). In



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all other aspects, the award of the Tribunal appears to be very reasonable

and I see no reason to interfere with the same. Therefore, the Compensation

awarded by the Tribunal is reworked as below:

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
1	Loss of Earnings	Rs. 9,000/-	Rs. 18,000/-	Enhanced
2	Transport to Hospital	Rs. 1,000/-	Rs. 1,000/-	Confirmed
3	Extra Nourishment	Rs. 3,000/-	Rs. 3,000/-	Confirmed
4	Damages to clothing article and	Rs. 1,000/-	Rs. 1,000/-	Confirmed
5	Other Medical Expenses	Rs. 35,720/-	Rs. 35,720/-	Confirmed
6	Compensation for pain and sufferings	Rs. 5,000/-	Rs. 5,000/-	Confirmed
7	Compensation for partial permanent disability and loss of earning power	Rs. 37,500/-	Rs. 84,000/-	Enhanced
	TOTAL	Rs. 92,220/-	Rs. 1,47,720/-	

4. In the result, this Civil Miscellaneous Appeal is allowed and the



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compensation of Rs.92,220/- awarded by the Tribunal is hereby Enhanced

to a sum of **Rs.1,47,720/-**. Therefore, the 2nd respondent / Insurance

Company is directed to deposit the enhanced amount of **Rs.1,47,720/-** to the credit of M.C.O.P.No.105 of 2009 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Tiruchengode, together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs, less, the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court, as apportioned by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimant. No costs.

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Index : Yes/No

Speaking / Non-speaking order

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To:

1. The Motor Accident Claims Tribunal,
Subordinate Judge,
Tiruchengode,
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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P.T.ASHA, J.,

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