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C.M.A.No.2814 of 2014

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 22.09.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2814 of 2014

Palanisamy

... Appellant/Petitioner

Vs.

1.Musthafa

2.The National Insurance Company Limited,
Gobi – Erode Main Raod,
Opp. Kittu Maligai Store,
Gobichettipalayam,
Erode District.

... Respondents

(Notice may be dispensed with for R1 since he was set *ex parte* before the Tribunal)



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Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 24.01.2014 in M.C.O.P.No.447 of 2010 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Sankari.

For Appellant : Mr.C.Kulanthaivel

For Respondents : Mr.S.Arun Kumar for R2

R1 – ex parte

JUDGMENT

The injured petitioner has filed an appeal seeking enhancement of the compensation granted to him by the learned Subordinate Judge, Motor Accidents Claims Tribunal, Sankari, in MCOP.No.447 of 2010. The Tribunal has awarded a sum of Rs.2,20,915/ and has also mulcted the plaintiff with the 15% of the liability since he has driven the motor cycle without possessing a valid driving licence.



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2.The learned counsel for the respondent/Insurance Company would submit that the appellant/petitioner has not made out any case for enhancing the award and the Award granted may be confirmed.

3.Heard the learned counsels appearing on either side and perused the papers.

4.The accident had taken place on 15.06.2010 and admittedly, the petitioner did not possess a valid driving license. Therefore, the apportionment of liability of 15% on the petitioner appears to be reasonable. As regards the quantum, the disability has been assessed on a percentage basis adopting a sum of Rs.2,000/- per percentage. The same shall stand enhanced to a sum of Rs.3,000/-. Therefore, the amount under the head of disability would be a sum of Rs.1,50,000/-. In all other respects, the Award remains unaltered. The enhanced



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compensation would be a sum of Rs.3,09,900/-. 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.	Disability	Rs.1,00,000/-	Rs.1,50,000/-	Enhanced
2.	Loss of income	Rs.22,500/-	Rs.22,500/-	Confirmed
3.	Pain and sufferings	Rs.30,000/-	Rs.30,000/-	Confirmed
4.	Medical expenses	Rs.92,400/-	Rs.92,400/-	Confirmed
5.	Extra nourishment	Rs.5,000/-	Rs.5,000/-	Confirmed
6.	Transportation	Rs.10,000/-	Rs.10,000/-	Confirmed
	Total	Rs.2,59,900/-	Rs.3,09,900/-	

5. 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.447 of 2010 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Sankari, within a period of six weeks from the date of receipt of a copy



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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.

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.

22.09.2022

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

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sankari.



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P.T. ASHA, J,

mps

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