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C.M.A.No.45 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2023

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.45 of 2023

L.Prakash, S/o.M.Lakshminarayanan,
No.55, Kumalamman Koil Street,
Tondiarpet, Chennai 81.

... Appellant

Vs.

1.T.Manoharan,
Old No.162, New No.8, Ennore High Road,
Chennai 81.

2.The New India Assurance Co. Ltd.,
Motor Accident Third Party Cell,
No.45, Moore Street,
Chennai 1.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment dated 22.02.2018 made in MCOP.No.2752 of 2011 on the file of the Motor Accident Claims Tribunal (VI Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : Mr.J.Chandran (for R2)



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JUDGMENT

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The Appeal has been filed against the Decree and Judgment dated 22.02.2018 made in MCOP.No.2752 of 2011 on the file of the Motor Accident Claims Tribunal (VI Small Causes Court), Chennai.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed the claim Petition for the injuries sustained by him in a road traffic accident occurred on 21.12.2010. The Tribunal has awarded a sum of Rs.2,90,000/- with interest at the rate of 7.5% per annum. Aggrieved against the same and seeking enhancement, he has preferred this Appeal.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal.



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5. Heard the learned counsel for the claim Petitioner and learned counsel for the Insurance Company on the point of quantum of compensation.

6. The Tribunal has held that the injured is not having valid driving license and fixed 5% contributory negligence on the claim Petitioner. On perusal of the evidences, I find that the same is fair and hence, the same is hereby confirmed. As per Ex.P.6(s)/Medical bills, the Tribunal has awarded a sum of Rs.1,75,782/-, the same is also confirmed.

7. PW2/Doctor assessed the disability as 50%. On perusal of discharge summary/Ex.P.8 issued by Right Hospital and Ex.P.7/Treatment records, I am of the considered view that disability to be fixed at 30%. Accordingly, the loss of earning capacity due to the disability sustained by the claim Petitioner comes to Rs.90,000/- (Rs.3,000/- X 30) and this Court modified the compensation amount as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
1	Loss of earning capacity	90000
2	Pain and sufferings	25000
3	Transportation	10000
4	Extra nourishment	10000



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S.No.	Heads	Amount (Rs.)
5	Loss of income	27000
6	Attender charges	20000
7	Loss of amenities	10000
8	Medical bills	175782
	Total	367782

8. In total, the claim Petitioner is entitled to a sum of Rs.3,49,400/- (Rupees three lakh forty nine thousand and four hundred only) [367782 - 5% of 367782].

9. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.2,90,000/- to Rs.3,49,400/- to the extent indicated above, with 7.5% interest per annum. No Costs.

(ii) the Insurance Company is directed to deposit the enhanced award amount before the Tribunal, with interest (excluding the interest for the default period of 613 days in filing the above Appeal) and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any



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already deposited.

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(iii) on such deposit being made, the claim Petitioner is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

19.01.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order/Non-Speaking Order

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To

The VI Judge,
Court of Small Causes,
Chennai.



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RMT.TEEKAA RAMAN.J,

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