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CMA.No. 1187 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM:

THE HON'BLE MRS. JUSTICE N. MALA

Civil Miscellaneous Appeal No. 1187 of 2022

Karthick

... Appellant

Versus

1. Kaliannan
2. Venugopal
3. The United India Insurance Company Limited
No. 1171, Muthiah Complex, Mettur Road
Erode – 638 011.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 17.04.2021 in MCOP.No. 617 of 2018 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Erode.

For Petitioner	: Mr.C. Paraneedharan
For RR 1&2	: Ex-parte before the Tribunal
For R3	: Mr.M.B. Raghavan



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compensation.

4. Before the Claims Tribunal, the claimant examined himself as PW1 and one another witness was examined as PW2 and Ex.P1 to Ex.P21 were marked in support of the claim. On the side of the third respondent/Insurance Company, no oral and documentary evidence was adduced.

5. The Tribunal on an assessment of the entire evidence on record, rendered a finding of the negligence against the driver of the second respondent, assessed the compensation at Rs.3,54,000/- along with 7.5% interest and mulcted the liability on the 3rd respondent/Insurance Company. Not satisfied with the award passed by the Tribunal, the claimant has filed the above appeal for enhancement of compensation.

6. The learned counsel for the claimant submitted that the award of the Claims Tribunal under the various heads were meagre and the same deserved to be enhanced. According to the counsel, the claimant suffered bone fractures and was hospitalized for 21 days totally. The learned



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counsel hence submitted that the compensation awarded by the Tribunal deserved to be enhanced.

7. The learned counsel for the third respondent/Insurance Company, on the other hand, submitted that the award of the Tribunal was just, fair and reasonable and did not call for any interference in the appeal.

8. I have heard the learned counsel for the appellant and the learned counsel for the third respondent/Insurance Company and perused the materials available on record.

9. It is seen that the claimant suffered fracture shaft of femur left thigh and the Doctor had assessed the Partial Permanent Disability at 24% under Ex.P21. The Tribunal assessed the compensation towards “Partial Permanent Disability” and “loss of earning power” at Rs.20,000/- at the rate of Rs.5,000/- per disability. In my view, the award of the Tribunal towards “Partial Permanent Disability” and “loss of earning power” does not call for any interference and the same is confirmed. The award of the Tribunal under the other heads, in my view, needs to be interfered for the



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reasons that the claimant was hospitalized for 20 days totally for treatment of the injuries suffered by him in the accident. The Claimant was working as Mechanical Engineer in a private company and earning a sum of Rs.15,000/- per month.

10. I am of the view that the award of the Tribunal towards the head “Transport to Hospital”, “Extra Nourishment” and “Attender Charges” deserves to be enhanced. Accordingly, the award of the Tribunal is modified as follows:-

<i>Sl.No.</i>	<i>Heads under which the amount is awarded</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount awarded by this court</i>
1	Loss of Earnings	Rs.50,000	Rs.50,000
2	Transport to Hospital	Rs.6,000	Rs.20,000
3	Extra Nourishment	Rs.6,000	Rs.15,000
4	Attender Charges	Rs.6,000	Rs.20,000
5	Future Medical Expenses	---	---
6	Damages for Clothes and Articles	Rs.3,000	Rs.3,000
7	Medical Expenses	Rs.1,13,000	Rs.1,13,000
8	Pain and Sufferings	Rs.50,000	Rs.50,000
9	Permanent Disability and Loss of Earning Power	Rs.1,20,000	Rs.1,20,000
	Total	Rs.3,54,000	Rs.3,91,000



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11. The Award of the Tribunal is modified and the compensation is enhanced to be Rs.3,91,000/- along with 7.5% interest from the date of the petition till the date of deposit. It is submitted by the learned counsel for the 3rd respondent/Insurance Company that the entire award amount was already deposited before the Tribunal.

12. In view of the above submission made by the learned counsel for the third respondent/Insurance Company, there shall be a direction to the respondent/Insurance Company to deposit the enhanced compensation amount of Rs.37,000/- along with 7.5% interest within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant shall be entitled to withdraw the same by making proper application before the Tribunal.

13. In the result, the Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

12.06.2023

Index:Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

MSM



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- To
1. The Special Subordinate Judge,
Motor Accident Claims Tribunal, Erode.
 2. The Section Officer, V.R. Section, High Court, Madras



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N. MALA, J

MSM

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