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C.M.A.No.827 of 2018

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 08.03.2023

CORAM

**THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN**

C.M.A.No.827 of 2018

and

C.M.P No.6834 of 2018

M/s.Royal Sundaram Alliance  
Insurance Company Limited  
4-A, 4th Floor Thirumalai Towers  
No.723, Avinashi Salai  
Coimbatore-641 018.

.. Appellant

Vs.

1.M.Paraman  
2.Shanmugam

..Respondents

**Prayer:** The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.08.2017 made in MACTOP No.618 of 2010 on the file of the Motor Accident Claims Tribunal/ Subordinate Judge, Sankagiri.

For Appellant : Mr.E.Rajadurai  
M/s.M.B.Gopalan Associates

For Respondents : Mr.T.S.Arthanareeswaran for R1



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## J U D G M E N T

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The appeal on hand is filed against the judgment and decree dated 12.08.2017 passed in MCOP No.618 of 2014, on the file of the Motor Accident Claims Tribunal/Subordinate Judge, Sankagiri.

2. The Royal Sundaram Aliance Insurance Company Limited is the appellant, who filed this appeal questioning the quantum of compensation.

3. The accident occurred on 05.09.2010 at 8.00 p.m., at Korakkuttai, Kuppankadu. The Molasi Police Station registered a case in Crime No.181 of 2010 under Sections 279 and 337 IPC. The first respondent/claimant, due to the accident sustained fracture on his right leg and also multiple injuries all over the body. Thereafter, the claim petition was filed and the Tribunal adjudicated the issues with reference to the documents and evidences. The appellant/Insurance company has defended their case. The Tribunal has awarded a total compensation of Rs.8,75,00/-.



4. The learned counsel appearing on behalf of the appellant/Insurance

Company mainly contended that the quantum of compensation granted by the Tribunal under various heads is exorbitant and based on that, the appellant/Insurance Company has chosen to file the present appeal. The Tribunal has awarded excessive compensation towards loss of earning capacity by adopting the multiplier method, which is erroneous in law. The Tribunal has also erred in awarding a compensation of Rs.40,000/- towards simple injuries and it has to be reduced. For the aforesaid reasons, the award is liable to be dismissed.

5. The learned counsel for the 1st respondent/claimant disputed the said contention by stating that considering the grievousness of the injuries, the Tribunal awarded the compensation and there is no excessive award and accordingly, the appeal is liable to be dismissed.

6. The claimant is an agriculturist and aged 45 years. A perusal of Ex.P6 to P10 would reveal that after the accident, the claimant had taken



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treatment at Thiruchengode Kumaran Hospital as inpatient from 06.09.2010 to 22.10.2010, 13.12.2010 to 10.01.2011, 23.03.2011 to 05.04.2011, 24.05.2011 to 21.06.2011. Considering the nature of the injuries as well as the disability sustained, the Tribunal has awarded a sum of Rs.4,24,000/- towards loss of earning capacity. However, the Tribunal has also awarded a compensation of Rs.40,000/- under the head of simple injuries. In the considered view of this Court, when already the Tribunal has awarded sufficient amount under the head of loss of earning capacity, unnecessarily the Tribunal has awarded excess compensation under the head of simple injuries and hence, the same is liable to be set aside.

7. Insofar as the other heads of the compensation are concerned, the assessment of the compensation under the said heads by the Tribunal is a just compensation and it does not call for any interference by this Court.



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8. For the forgoing reasons, the compensation awarded by the Tribunal

under the impugned award is modified in the following manner:

| <i><b>Heads</b></i>                                | <i><b>Amount<br/>awarded by the<br/>Tribunal<br/>(Rs.)</b></i> | <i><b>Award Amount<br/>by this Court<br/>(Rs.)</b></i> |
|----------------------------------------------------|----------------------------------------------------------------|--------------------------------------------------------|
| Loss of earning capacity<br>(7000 x 12 x 14 x 36%) | 4,24,000/-                                                     | Rs.4,24,000/-                                          |
| Medical Expenses                                   | 2,99,000/-                                                     | 2,99,000/-                                             |
| Pain and Suffering                                 | 50,000/-                                                       | 50,000/-                                               |
| Transport charges                                  | 10,000/-                                                       | 10,000/-                                               |
| Extra Nourishment                                  | 20,000/-                                                       | 20,000/-                                               |
| Attender charges                                   | 10,000/-                                                       | 10,000/-                                               |
| Future Medical Expenses                            | 20,000/-                                                       | 20,000/-                                               |
| Compensation towards simple injuries               | 40,000/-                                                       | Nil                                                    |
| Damages to articles                                | 2,000/-                                                        | 2,000/-                                                |
| <b>Total</b>                                       | <b>8,75,000/-</b>                                              | <b>8,35,000/-</b>                                      |



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9. In the result,

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(i) This appeal is partly allowed and the Appellant Insurance Company is directed to deposit the modified award amount i.e, Rs.8,35,000/- along with interest at the rate of 7.5% per annum and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.618 of 2010 within a period of six weeks from the date of receipt of a copy of this Judgment.

(ii) On such deposit being made, the Tribunal is directed to transfer the award amount to the bank account of the first respondent/claimant along with accrued interest through RTGS within a period of two weeks thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No  
Speaking Order/Non-Speaking Order  
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1.The Motor Accident Claims Tribunal,  
Subordinate Judge, Sankagiri.

2.The Section Officer,  
V.R Section,  
High Court, Madras.



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**A.A.NAKKIRAN, J.**  
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