



CMA.No.2515 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.2515 of 2023

Ilambaroudy

... Appellant

-Vs-

1.Kumarasamy

2.The Divisional Manager,

Royal Sundaram General Insurance Co. Ltd.,

No.127, 2nd Floor, Natesan Nagar,

Natesan Towers, Ellaipillaichavady,

Pondicherry.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the Award dated 10.10.2022 made in MACTOP No.15 of 2022 on the file of the Motor Accident Claims Tribunal, Special Officer-cum-Additional Sub Judge, Puducherry.

For Petitioner : Mr.T.Ananthasekar

For R1 : Notice D/W Vide order dt.16.10.2023

For R2 : M/s.C.Harini for Mr.M.B.Gopalan

JUDGMENT

The claimant, who has suffered 16% disability as assessed by the Medical Board owing to fracture of his right tibia and fibula in a road



CMA.No.2515 of 2022

accident, which took place when a car bearing Regn.No.PY 01 BA 6190 insured with the second respondent dashed against him, is before this Court with this Appeal. He was awarded a compensation of Rs.4,06,457/- by the Tribunal and dissatisfied with the same, the claimant is before this Court with this appeal.

2.The first respondent remained ex-parte before the Tribunal and hence, notice to him dispensed with.

3.Ms.C.Harini, learned counsel entered appearance on behalf of the second respondent.

4.The learned counsel for the appellant submitted that while the Medical Board has determined the disability at 16%, the Tribunal has reckoned it at only 15%. Further, that the notional income as fixed by the Tribunal is on the lower side.

5.Heard both sides and the perused the documents on record.



CMA.No.2515 of 2022

6.The appellant was aged around 55 years at the time of the accident and he was stated to be working abroad, but no material was produced to prove the same. The Tribunal notionally fixed his income at Rs.12,000/- and granted Rs.60,000/- as compensation for the loss of income during the period when the appellant was taking treatment and canalizing. This Court finds Rs.12,000/- as notional income fixed for the claimant/appellant appears reasonable and therefore, it does not need the interference of this Court.

7.However, while the Medical Board had determined the percentage of disability at 16%, the tribunal has reckoned it at 15% and awarded a sum of Rs.5,000 for every percentage of disability and arrived at a net sum of Rs.75,000/- under the head of permanent disability. The compensation awarded under this head is now enhanced to Rs.80,000/- by reckoning the percentage of disability at 16% and awarding Rs.5,000/- for every percentage of disability.

8. It is also noted that the appellant was hospitalized at least thrice, which implies, he may have to be given additional compensation on other



CMA.No.2515 of 2022

conventional heads. Accordingly, this Court increases the compensation payable on other conventional heads as below;

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent Disability (16%)	75,000/-	80,000/-	Enhanced
2.	Pain and Sufferings	1,00,000/-	1,00,000/-	Confirmed
3.	Loss of Income	60,000/-	60,000/-	Confirmed
4.	Transport	10,000/-	20,000/-	Enhanced
5.	Nutritious Food	10,000/-	20,000/-	Enhanced
6.	Medical Expenses	1,31,457/-	1,31,457/-	Confirmed
7.	Attender Charges	10,000/-	30,000/-	Enhanced
8.	Comfort and Amenities	10,000/-	20,000/-	Enhanced
	Grand Total	4,06,457/-	4,61,457/-	Enhanced by 55,000/-

9. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.4,06,457/- is hereby enhanced to Rs.4,61,457/- together with interest at 7.5% per



CMA.No.2515 of 2022

annum (excluding the default period if any) from the date of petition till the date of deposit. The second respondent / Insurance Company is directed to deposit the award amount, now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellant is permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. This Court confirms the decree of the Tribunal wherein it has allowed the second respondent to pay and to recover the same from the first respondent. As to the rest, the Award of the Tribunal is confirmed. The appellant is directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

16.10.2023

Tsg



WEB COPY



CMA.No.2515 of 2022

N.SESHASAYEE, J.,

Tsg

To

- 1.The Motor Accident Claims Tribunal,
Special Officer-cum-Additional Sub Judge,
Puducherry.
- 2.The Section Officer,
V.R.Section, High Court, Madras.

CMA.No.2515 of 2023

16.10.2023