



CMA.No.2332 of 2022

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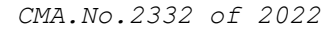
CMA.No.2332 of 2022
and
CMP.No.18150 of 2022

RMT.TEEKAA RAMAN, J.,

This matter has been brought before this Court by way of “For being mentioned”

2.By order dated 15.02.2023, this Court passed an order of reducing the compensation to Rs.10,11,885/- in CMA.No.2332 of 2022. Learned counsel appearing on either side would categorically admitted that the treatment for the injuries sustained by the claim Petitioner was taken after a period of two years and by inadvertence, learned counsel for the Respondent has not made any submission on this ground. Therefore, I am inclined to modify the Judgment dated 15.02.2023 and the Registry is directed to replace the following as paragraph Nos.5 to 9 of the Judgment passed in CMA.No.2332 of 2022 dated 15.02.2023:

“5.As per the evidence of PW1, the deceased was working as an Agriculturist and was doing seasonal business and at the time of the accident, though he claimed that he was earning Rs.30,000/- per month, no



6. Heard the learned counsel appearing on behalf of the Insurance Company and the learned counsel appearing on behalf of the claim Petitioner.

8.The accident was occurred on 25.11.2018 and the medical bills and



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other connected records produced under Ex.P.7 to Ex.P.13 are related to December 2020 and January 2021. In Ex.P.7/follow up card issued by Balaji Institute of Surgery Research and Rehabilitaiton for Disabled, Tirumala Tirupati Devasthanams, Tirupati, the date of admission was mentioned as 12.12.2020 and hence, I find that those injuries does not relate to the accident dated 26.11.2018 and therefore, the compensation awarded under various heads by the Tribunal is hereby vacated and a consolidated sum of Rs.2,50,000/- (Rupees two lakh and fifty thousand only) is granted as compensation to the claim Petitioner, by invoking Order 41 Rule 33 of CPC, and Section 151 and Article 227 of Constitution of India.

9.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, reducing the compensation from Rs.12,00,885/- to Rs.2,50,000/- to the extent indicated above. No Costs. Consequently, connected Miscellaneous Petition is closed.

(ii) the Insurance Company is directed to deposit the reduced award amount



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before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) the claim Petitioner is entitled to get the entire award amount and permitted to withdraw the same, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.

(iv) the Insurance company is permitted to withdraw the excess amount deposited by them, if any, from the Tribunal.”

03.03.2023

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Note: Registry is directed to carry out necessary modification and issue fresh order copy.



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RMT.TEEKAA RAMAN, J.,
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CMA.No.2332 of 2022
and
CMP.No.18150 of 2022

Dated: 03.03.2023



CMA.No.2332 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on
03.02.2023

Pronounced on
15.02.2023

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2332 of 2022
and
C.M.P.No.18150 of 2022

United India Insurance Co.Ltd.,
Katpadi Road, Vellore,
Vellore District.

...Appellant

Vs.

1.R.Ramesh
2.Saravan Kesavulu

... Respondent

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and Decree dated 02.12.2021 made in M.C.O.P.No.61 of 2019, on the file of Motor Accident Claims Tribunal/Special Subordinate Judge, Tirupattur.

For Appellant	: Mr.D.Bhaskaran
For R1	: Mr.S.Udhayakumar
For R2	: No appearance



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J U D G M E N T

This Appeal has been filed against the award passed by the Motor Accidents Claims Tribunal/Special Subordinate Judge, Tirupattur in M.C.O.P.No.61 of 2019, dated 02.12.2021.

2.The Insurance Company is the appellant herein.

3. The factum of the accident, the manner of the accident and the rash and negligent driving on the part of the driver of the offending vehicle, are not disputed and hence, the finding rendered by the Tribunal is hereby confirmed.

4. The 1st respondent, who suffered injury on the road accident on 25.11.2008, filed a claim petition in M.C.O.P.No.61 of 2021 before the Tribunal on 20.02.2019. Subsequently, it appears that he has taken treatment for the injury sustained him and Ex.P8 to Ex.P12 are the medical bills for the treatment and the Tribunal has awarded a sum of Rs.12,00,885/-. Challenging the said compensation, the Insurance Company has preferred this present appeal.



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5. As per the evidence of PW1, deceased was working as an Agricultural cum seasonal business at the time of the accident. Though he has claimed that he was earning a sum of Rs.30,000/- per month, no documents were produced to substantiate the same. The claims tribunal, though observed that no document was produced for the proof of employment, has fixed Rs.9,000/- as notional income, which appears to be on the higher side. Hence, by fixing Rs.7,000/- as notional income, the loss of income is re-assessed as follows:

Notional Income	: Rs.7,500/-
25% Future Prospects	: Rs.1,875/-
Total Monthly Income	: Rs.9,375/-
Annual Income	: Rs.9,375/- x 12 = Rs.1,12,500/-
Age	: 43 years
Multiplier	: 14
Disability	: 60%
Loss of Income	: Rs.1,12,500/- x 14 x 60 / 100 = Rs.9,45,000/-

6. After hearing the rival submissions and also after perusing the Ex.P2 Accident Register; Ex.P7 Discharge Summary; Ex.P8 to Ex.P12 medical bills; and Ex.P13-disability certificate and also taking note of the fact that after filing of the claim petition, the claimant had taken further treatment for the injuries sustained on the road accident, this Court is of the view that the compensation may be reduced to Rs.10,11,885/- from the award of Rs.12,00,885/-.



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7. The break-up of the compensation is as follows:

<i>S. No.</i>	<i>Head</i>	<i>Awarded by the tribunal</i>	<i>Awarded by this Court</i>
1.	Loss of income	11,34,000	9,45,000/-
2	Pain and sufferings	40000	40,000/-
3	Extra nourishment	5000	5,000/-
4	Transportation	5000	5,000/-
5	Attender charges	3000	3,000/-
6	Loss of amenities	10000	10,000/-
7	Medical expenses	3885	3,885/-
Total		12,00,885/-	10,11,885/-

8. In total, the claim Petitioner is entitled to a sum of Rs.10,11,885/- (Rupees Ten lakhs eleven thousand eight hundred and eighty five only) with interest at the rate of 7.5% per annum from the date of Petition till date of realisation.

9. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, reducing the award amount from Rs.12,00,885/- to Rs.10,11,885/-. No Costs. consequently, connected C.M.P is closed.



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(ii) the appellant/Insurance Company is directed to deposit the award amount of Rs.10,11,885/-, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, all the claimants/appellants are permitted to withdraw their entire share in the enhanced award amount with proportionate accrued interest and costs, as per the ratio of apportionment made by the Tribunal, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the appellants/claimants are 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.

15.02.2023

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Index : Yes/No

Internet : Yes/No

Neutral Citation:Yes/No

Speaking Order: Yes/no

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To

1. The Motor Accident Claims Tribunal
Special Subordinate Judge, Tirupattur.
2. The Section Officer,
V.R.Section, High Court of Madras, Chennai.



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RMT.TEEKAA RAMAN.J.

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Judgment made in
C.M.A.No.2332 of 2022 and
C.M.P.No.18150 of 2022

Dated:15.02.2023