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CMA.No.3421 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04. 2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.3421 of 2014

A.M.Saravanan

Appellant

Vs

1. A.Periasamy
2. S.L.Palanisamy

3. The United India Insurance Company Limited
Erode 638 011

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 30.11.2012, made in MCOP.No.203 of 2011, by the II Additional Sub Court (MACT) Erode.

For Appellant : Mr.K.govi Ganesan

For Respondents : Mr.C.Paranthaman-R3
RR1 and 2 - No Appearance

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 30.11.2012, made in MCOP.No.203 of 2011, by the II Additional Sub Court (MACT) Erode.
2. The claimant has filed the claim petition before the Tribunal, seeking a compensation of Rs.5,00,000/- on various heads, for the injuries, sustained by him, in a motor road accident, which took place on 20.11.2010. The Respondents 1 and 2, who are the driver and owner of the offending vehicle,



CMA.No.3421 of 2014

remained exparte. The claim petition was resisted, on various grounds, by the 3rd Respondent/ Insurance Company, by filing a counter. On the side of the claimant, PW.1 to PW.3 were examined and Ex.P1 to Ex.P12 were marked. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle, the Tribunal has awarded a total compensation of Rs.1,30,000/- with interest at 7.5% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Medical Expenses	52000.00
2	Continuing Disability (25% x 2000)	50000.00
3	Pain and Suffering	18000.00
4	Extra Nourishment	5000.00
5	Transportation Expenses	5000.00
Total Compensation		130000.00

Aggrieved by the quantum of compensation, this appeal has been filed by the claimant.

3. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.
4. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with respect to the negligence aspect is confirmed and also, it is not necessary to narrate the entire facts in detail in respect of the accident.
5. According to the learned counsel for the Appellant, the Tribunal, having found the disability at 30% based on Ex.P19 wound certificate, the oral evidence of PW.3 Doctor and other medical records, erred in fixing the same



CMA.No.3421 of 2014

at 25% and also the monthly income of Rs.2,000/- arrived at by the Tribunal is not proper. According to the learned counsel for the 3rd Respondent/ Insurance Company, the compensation awarded by the Tribunal is just and proper.

6. As found by the Tribunal, considering Ex.P19 wound certificate and other medical records, it would be appropriate to fix the disability at 30%. Further, even in the absence of evidence to prove the monthly income, it would be proper to fix the notional monthly income at Rs.3,000/-. Thus, the compensation under the head of continuing disability would come to Rs.90,000/= (Rs.3000 x 30). The compensation awarded under other heads are confirmed.

7. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimant is entitled to a total compensation of Rs.1,70,000/- (Rupees one lakh seventy thousand only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Medical Expenses	52000.00
2	Continuing Disability (30% x 3000)	90000.00
3	Pain and Suffering	18000.00
4	Extra Nourishment	5000.00
5	Transportation Expenses	5000.00
Total Compensation		170000.00

The 3rd Respondent / Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of four weeks from the date of receipt of a copy of this order. On such



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CMA.No.3421 of 2014

A.A.NAKKIRAN, J.

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deposit being made, the claimant is entitled to withdraw the entire compensation amount with interest, by filing proper application. No costs.

21.04. 2023

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

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To

1. The II Additional Sub Court (MACT) Erode
2. The Record Keeper, VR Section, High Court, Madras

CMA.No.3421 of 2014