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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2876 of 2022

K.Velayutham

...Appellant

Vs.

1.V.Annamalai

2.United India Insurance Company,
Branch office, Rep.by its Branch Manager,
No.50A, Pallivasal street,
Perambalur – 621212

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 26.08.2022 and made in M.C.O.P.No.466 of 2019 on the file of Motor Accident Claims Tribunal Judge / Principal District Judge, Perambalur.

For Appellant : Mr.C.Vidhusan

For R1 : No appearance

For R2 : Mr.J.Chandran



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JUDGMENT

The Appeal has been filed against the award dated 226.08.2022 made in M.C.O.P.No.466 of 2019 on the file of the Motor Accident Claims Tribunal Judge / Principal District Judge, Perambalur.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed the above Appeal, seeking compensation for the injuries sustained by him in a road traffic accident on 05.04.2019. The Tribunal has awarded a sum of Rs.38,992/- with interest at the rate of 7.5%. Aggrieved by the same and seeking enhancement, he has preferred this Appeal.

4.During the trial, on the side of the claim Petitioner, PW1 is examined, Ex.P1 to Ex.P.9 were marked. None was examined and no documents were marked on the side of the Respondents.

5.Heard the learned counsel for the claim Petitioner/Appellant and learned counsel for the 2nd Respondent.



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6.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent, are not under challenge in this Appeal. Accordingly, the findings rendered by the Tribunal that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent, are hereby confirmed.

7.The petitioner was admitted in the Government Head Quarters Hospital, Perambalur as inpatient from 05.04.2019 to 13.04.2019 and he worked as a supervisor in MRF tyre Company. After treatment, he was discharged and he has filed the petition seeking compensation. The Tribunal has granted Rs.38,992/- and he seeks enhancement of compensation.

8. The petitioner was referred to Medical Board and the disability certificate is marked as Ex.C1. As per the disability certificate, the percentage of disability is fixed at 1%. As per the judgment of the Hon'ble High Court of Madras in 2020 (1) TN MAC 617 [M.Chinnathambi Versus S.Deepa], the Tribunal awards Rs.5,000/- (1*5000) towards 'permanent disability' and the same is hereby enhanced to Rs.10,000/-.



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9. Taking into consideration of period of treatment as in-patient in hospital and in the interest of justice, Rs.5,000/- is hereby awarded for 'attendant charges'.

10. Furthermore, the Tribunal has awarded a sum of Rs.10,000/- towards 'pain and sufferings'; a sum of Rs.10,992/- towards 'vehicle damages' and a sum of Rs.5,000/- towards 'extra nourishment' are hereby confirmed. For 'transportation', the Tribunal has awarded a sum of Rs.8,000/- and the same is enhanced to Rs.10,000/-. The appellant/claimant is entitled to a sum of Rs.10,000/- towards 'loss of amenities'. Furthermore, the appellant/claimant is entitled to a sum of Rs.10,000/- towards 'loss of income'.

11. The break-up details of the compensation is as under:

<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.	Disability (1*5000)	Rs. 5,000/-	Rs. 10,000/-
2.	Pain and suffering	Rs. 10,000/-	Rs. 10,000/-
3.	Extra Nourishment	Rs. 5,000/-	Rs. 10,000/-
4.	Transportation	Rs. 8,000/-	Rs. 10,000/-
5.	Vehicle damages (Ex.P9)	Rs. 10,992/-	Rs. 10,992/-
6.	Attendant charges	-----	Rs. 5,000/-
7.	Loss of income for 1 month	-----	Rs. 10,000/-
8.	Loss of amenities	-----	Rs. 10,000/-
	Total	Rs. 38,992/-	Rs. 75,992/-



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In total, the claim Petitioner is entitled to a sum of Rs.75,992/- (Rupees Seventy five thousand nine hundred and ninety two only).

11. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount **from Rs.38,992/- to Rs.75,992/-** to the extent indicated above, with 7.5% interest per annum. No Costs.

(ii) the 2nd Respondent/insurance company is directed to deposit the enhanced award amount 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, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is 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.



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Index : Yes/No
Speaking/Non-speaking order

To

1.The Motor Accident Claims Tribunal Judge /
Principal District Judge, Perambalur.

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



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RMT.TEEKAA RAMAN, J.

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