



CMA.No.3515 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

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Sivakumar

Appellant

Vs

1. Muthulakshmi

2. National Insurance Company Limited
Mumbai 400038

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 05.10.2015, made in MCOP.No.834 of 2013, by the Additional District Judge (MACT) Namakkal.

For Appellant : Mr.R.Nalliappan

For Respondents : Mr.J.Michael Visuvasam-R2

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimant, against the judgement and decree, dated, 05.10.2015, made in MCOP.No.834 of 2013, by the Additional District Judge (MACT) Namakkal.
2. The claimant has filed the claim petition before the Tribunal, seeking a compensation of Rs.15,00,000/- on various heads, for the injuries sustained by him, in a motor road accident, which took place on 17.08.2012. The 1st Respondent herein/owner of the offending vehicle remained exparte. The



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claim petition was resisted, on various grounds, by the 2nd Respondent/ Insurance Company, by filing a counter. On the side of the claimant, PW.1 to PW.4 were examined and Ex.P1 to Ex.P17 were marked. On the side of the Insurance Company, RW.1 and RW.2 were examined and Ex.R1 to 3rd Respondent were marked.

3. 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.4,71,913/-, 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	48% Disability	96000.00
2	Medical Expenses	189156.00
3	Loss of Income for six months	116757.00
4	Transportation Expenses	5000.00
5	Extra Nourishment	5000.00
6	Pain and Suffering	25000.00
7	Attendants Charges	10000.00
8	Loss of Amenities	25000.00
Total Compensation		471913.00

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

4. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.
5. 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



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narrate the entire facts in detail in respect of the accident.

6. According to the learned counsel for the Appellant, the claimant suffered communicated fractures on both legs, for which surgeries were performed and screws were implanted and hence, compensation awarded under the head of disability, fixing Rs.2000 per percentage is not proper and no compensation is awarded for future medical expenses.
7. According to the learned counsel for the 2nd Respondent/ Insurance Company, the compensation awarded by the Tribunal is just and proper.
8. Considering Ex.P16 disability certificate and other medical records, the Tribunal rightly fixed the disability at 48%. However, it is not proper to fix Rs.2,000/- per percentage and it would be appropriate to fix Rs.3000/- per percentage. Accordingly, a sum of Rs.1,44,000/- (Rs.3000/- per percentage = Rs.3000x48) for continuing permanent disability is hereby awarded.
9. Considering the nature of injuries and the fractures suffered by the claimant, a further sum of Rs.50,000/- towards future medical expenses is awarded. The compensation awarded under other heads are confirmed.
10. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimant is entitled to a total compensation of Rs.5,69,913/-, (Rupees five lakhs sixty nine thousand nine hundred and thirteen only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-



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A.A.NAKKIRAN, J.

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S.No	Category	Award Amount (Rs.)
1	48% Disability	144000.00
2	Medical Expenses	189156.00
3	Loss of Income for six months	116757.00
4	Transportation Expenses	5000.00
5	Extra Nourishment	5000.00
6	Pain and Suffering	25000.00
7	Attendants Charges	10000.00
8	Loss of Amenities	25000.00
9	Future Medical Expenses	50000.00
Total Compensation		569913.00

The 2nd 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 six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the entire compensation amount with interest, by filing proper application and by paying proper court fee for the enhanced compensation. No costs.

12.06.2023

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The Additional District Judge (MACT) Namakkal
2. The Record Keeper, VR Section, High Court, Madras

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