



C.M.A(MD)No.63 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.06.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.63 of 2016

Kulasan @ Kulasekaran

... Appellant/Petitioner

Vs.

1.Shri S.A.Agencies,
Through its Manager,
No.15, Jaganathan Nagar,
First Main Road,
Arumbakkam,
Chennai.

2.Royal Sundaram Alliance Insurances
Company Limited,
Through its Branch Manager,
No.113/114, Sir Thiyagaraja Road,
Fourth Floor,
Meena Kampala Arcade,
T.Nagar, Chennai.

3.Anitha

4.Royal Sundaram Alliance Insurance
Company Limited,
Through its Branch Manager,
No.178, Second Floor,
Linghi Chetty Street,
Parry, Chennai.

... Respondents/Respondents



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PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to allow this appeal and enhance the award amount in M.C.O.P.No.1230 of 2013 on the file of the Motor Accident Claims Tribunal, (II Additional District Court), Tirunelveli, dated 11.09.2014.

For Appellant : M/s.Jenita Bibin
for Mr.T.Selvakumaran

For R2 : Mr.Jerin Mathew
for Mr.M.E.Ilango

For R1,R3&R4 : No Appearance

JUDGMENT

The present appeal has been filed by the claimant seeking enhancement of the award passed by the Motor Accident Claims Tribunal, Tirunelveli in M.C.O.P.No.1230 of 2013.

2. In an accident that has taken place on 22.06.2013, the injured claimant had suffered 31% disability. As per Exhibits P.9 medical prescription and P.10 treatment particulars, it could be seen that the claimant has sustained fractures in the ribs and left chest. Surgeries were performed on the left side of the chest. Due to injury in the abdomen, spleen was damaged and it was removed. The tribunal has awarded a sum of Rs.2,000/- per percentage of disability and ultimately, awarded a sum



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of Rs.62,000/- for partial permanent disability. The tribunal has further awarded a sum of Rs.700/- for the medical bills and a sum of Rs.20,000/- towards pain and sufferings, a sum of Rs.5,000/- towards extra nourishment and travel expenses. In total, a sum of Rs.88,000/- has been awarded. Challenging the said award, the present appeal has been filed.

3. The learned counsel appearing for the appellant had contended that the Hon'ble Division Bench of our High Court in ***C.M.A.No.3461 of 2017 (United India Insurance Company Ltd., Vs. Vignesh & Another)*** has awarded a sum of Rs.4,000/- per percentage for an accident that has taken place in the year 2012. Therefore, the same should have been adopted by the tribunal. He further contended that considering the fact that there is a fracture on the ribs and the spleen was damaged and removed by the surgery, the amount under the head of pain and suffering should have been enhanced and amount should have been awarded under the head of loss of amenities. He further contended that the quantum of award under the head of extra nourishment and travel expenses are also on the lesser side. Hence, he prayed for enhancement of the compensation.

4. Per contra, the learned counsel for the 2nd respondent had contended that the tribunal after considering the medical records, has



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properly calculated the quantum of compensation and arrived at a sum of Rs.88,000/- and it does not warrant any enhancement.

5. I have carefully considered the submission made on either side.

6. In view of the judgment of the Hon'ble Division Bench of our High Court in *C.M.A.No.3461 of 2017 (United India Insurance Company Ltd., Vs. Vignesh & Another)*, this Court is inclined to enhance the award under the head of partial permanent disablement at the rate of Rs.4,000/- per percentage. Considering the fact that there are fractures in the rib bone and injury in the abdomen and spleen has been removed, the compensation under the head of pain and suffering will be enhanced to Rs.50,000/-. Considering the fact that the injured claimant was hospitalized for more than 3 weeks, this Court is inclined to award a sum of Rs.5,000/- towards attender charges. Another sum of Rs.10,000/- is awarded towards extra nourishment and another sum of Rs.10,000/- towards travel expenses is awarded.

7. In view of the above said deliberations, the award of the tribunal is modified as follows:

Partial permanent disability 31x4000 : Rs.1,24,000/-

Pain and suffering : Rs. 50,000/-



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Loss of amenities	: Rs. 50,000/-
Medical bills	: Rs. 700/-
Extra nourishment	: Rs. 10,000/-
Travel expenses	: Rs. 10,000/-
Attender charges	: Rs. 5,000/-

Total	: Rs.2,49,700/-

8. The award of the tribunal is enhanced from Rs.88,000/- to Rs. 2,49,700/-. The award amount shall carry the interest at the rate of 7.5% from the date of claim petition. The 2nd respondent insurance company is directed to deposit the enhanced amount within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. With the abvoe said observations, this Civil Miscellaneous Appeal is partly allowed to the extent as stated above. No costs.

30.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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- To
- 1.The Motor Accident Claims Tribunal,
(II Additional District Court),
Tirunelveli.
 - 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Judgment made in
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