



CMA(MD).No.378 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.03.2023

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THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.378 of 2017

Muthiah Samy

.... Petitioner/Appellant

Vs.

1. Karunamoorthy

2.Shri Ram General Insurance Company Ltd.,

Through its Branch Manager,

RIICO Industrial Area,

Sitapura, Jaipur,

Rajasthan.

... Respondents/ Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.1112 of 2014 on the file of the Motor Accident Claims Tribunal, (Special Sub Judge) Tirunelveli, dated 08.10.2015.

For Appellant	: Mr.T.Selvakumaran
For R1	: D/W
For R2	: Mr.D.Sivaraman



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J U D G M E N T

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The present appeal has been filed by the claimant seeking enhancement of the compensation fixed by the Motor Accident Claims Tribunal, (Special Sub Judge) Tirunelveli, in M.C.O.P.No.1112 of 2014 dated 08.10.2015.

2. According to the injured/claimant, on 12.09.2014, at about 09.30 a.m, when the claimant was proceeding towards Pavoorsathiram in his two wheeler, a Lorry bearing Reg.No.TN-57-M-0716 dashed against the two wheeler in a rash and negligent manner and the claimant was thrown away and sustained grievous injuries. He had sustained fracture in fibula and had also sustained injuries in his right knee. As per Ex.P.8, Wound Certificate, the partial permanent disability of the injured/claimant has been assessed at 22%. However, the Tribunal has considered the same as 25% and awarded a sum of Rs.75,000/-.

3. The learned counsel appearing for the appellant/claimant contended that after arriving the finding that the disability is 25%, for each percentage Rs.4,000/- has to be awarded and hence, a sum of



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Rs.1 lakh shall be awarded for partial permanent disability. He further contended that for pain and suffering, lesser amount of Rs.15,000/- has been awarded. He further sought for enhancement under the heads of loss of amenities, Expenses for Transport, Nutrition & attender charges.

4. Per contra, the learned counsel appearing for the Insurance Company has contended that the injured/claimant is working as Junior Assistant in Co-operative Society and there is no loss of income. The injured/claimant was treated as inpatient only for a period of 3 days and therefore, the award of the Tribunal is reasonable and therefore, there is no scope for further enhancement of compensation.

5. I have carefully considered the submissions made by the learned counsel on either side.

6. The learned counsel for the appellant/claimant had relied upon a judgment of the Hon'ble Supreme Court in the case of **Rudra Vs. National Insurance Company Limited and Another** reported in **2011 (1) TN MAC 537 (SC)**. In the said judgment, the Hon'ble Supreme Court has taken Rs.4,000/- for each percentage of partial permanent disability.



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7. Therefore, this Court is inclined to follow the said judgment and fix the compensation towards partial permanent disability at **Rs.1 lakh**. Since there is no loss of income for the period of treatment, the question of award of compensation under the said head does not arise. The appellant/claimant has sustained fracture in the right fibula and also right knee. He had contended that there is lack of movement in the said right knee. Perusal of Ex.P.8, Wound Certificate, reflects that there is lack of movement in the right leg. Therefore, this Court is inclined to award compensation of **Rs.20,000/-** towards loss of amenities. As far as pain and suffering is concerned, the Tribunal has been awarded a sum of Rs.15,000/- and this Court is inclined to enhance the same as **Rs.30,000/-**. The petitioner had met with an accident at Pavoorchathiram and he was transported to Tirunelveli Medical College Hospital. Therefore, this Court is inclined to award a sum of **Rs.15,000/-** towards Transport expenses and **Rs.10,000/-** towards Extra Nourishment.

7. In view of the above said facts, the compensation amount under various heads are modified as follows:

For Partial Permanent Disability : Rs. 1,00,000/-



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Loss of Pain and Suffering	: Rs. 30,000/-
Loss of Amenities	: Rs. 20,000/-
Transport Charges	: Rs. 15,000/-
Extra Nourishment	: Rs. 10,000/-
Total	: Rs.1,75,000/-

8. The Insurance Company is directed to pay a sum of Rs.1,75,000/- (Rupees One Lakh Seventy Five Thousand only) as compensation and the enhanced award amount will carry interest at the rate of 7.5% per annum from the date of claim petition. The Insurance Company is directed to deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this order. The claimant is directed to pay the deficit Court fee, if any, before this Court.

9. Accordingly, this Civil Miscellaneous Appeal stands allowed to the extent as stated above. There shall be no order as to costs.

21.03.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR,J.

dss

To

- 1.The Accident Claims Tribunal,
(Special Sub Judge) Tirunelveli,
- 2.Shri Ram General Insurance Company Ltd.,
Through its Branch Manager,
RIICO Industrial Area,
Sitapura, Jaipur,
Rajasthan.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

Judgement made in
C.M.A(MD)No.378 of 2017

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