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C.M.A.No.135 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.135 of 2020

Lakshmanan

.. Appellant

Vs.

1.M/s.Lead Logistics,
No.8, Mahatma Gandhi Nagar,
Opp. to P.S.K.Petrol Bunk,
Salem Road, Namakkal.

2.Reliance General Insurance Co. Ltd.,
Riaz Towers, II Floor, 2nd Avenue,
2054, Near GRT Jewellers,
Anna Nagar, Chennai - 600 040.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P. No.1399 of 2014 dated 18.11.2019 on the file of the Motor Accident Claims Tribunal/1st Additional Sub Judge, Cuddalore.

For Appellant : Ms.Ramya V.Rao

For second respondent : Mr.P.Suresh Srinivasan

JUDGMENT



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2.The appellant/claimant sustained the following injuries as a result of an accident caused by a vehicle, owned by the first respondent and insured with the second respondent:

'fracture of left tibia in left knee'

3. The Tribunal has awarded the compensation as detailed hereunder:

S.Nos.	Heads	Amounts awarded by the Tribunal
1.	For partial permanent disability (Rs.3,000 x 22)	Rs. 66,000.00
2.	Transport to hospital	Rs. 10,000.00
3.	Extra nourishment	Rs. 5,000.00
4.	Attender charges	Rs. 1,000.00
5.	Pain and sufferings, mental agony	Rs. 30,000.00
6.	Loss of amenities	Rs. 10,000.00
7.	Temporary loss of income (Rs.6,500 x 2)	Rs. 13,000.00
	Total	Rs.1,35,000.00

4.The Medical Board has assessed the disability of the appellant/



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claimant at 22%. The accident happened on 24.03.2014. The Tribunal has assessed the disability compensation payable to the appellant/ claimant at Rs.66,000/-, calculated at Rs.3,000/- per percentage for 22% disability, suffered by the appellant/claimant. Accordingly, the Tribunal fixed Rs.66,000/- as disability compensation. Since the accident happened in the year 2014, this Court is of the considered view that the Tribunal ought to have assessed the disability compensation of the appellant/claimant at Rs.88,000/-, calculated at Rs.4,000/- per percentage of disability, instead of Rs.3,000/- per percentage of disability. Accordingly, the disability compensation payable to the appellant/ claimant is enhanced from Rs.66,000/- to Rs.88,000/-.

5.The Tribunal has also awarded a meagre compensation towards Attender Charges at Rs.1,000/-, which has to be enhanced to Rs.10,000/-, considering the fact that since the appellant/claimant had sustained fracture of left tibia in left knee, he would have required attenders for the period of his treatment. Therefore, this Court enhances the compensation towards Attender Charges from Rs.1,000/- to Rs.10,000/-.

6.The Tribunal has also awarded lesser compensation to the appellant/claimant towards loss of amenities. The Tribunal has awarded a



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sum of Rs.10,000/- towards Loss of amenities, which has to be enhanced to Rs.20,000/- by this Court.

7.The appellant/claimant was a Coolie at the time of the accident. The appellant/claimant, having sustained fractures in his left knee as a Coolie, would not have been able to do his regular work atleast for a period of three months. Therefore, the Tribunal ought to have awarded loss of income to the appellant/claimant for a period of three months. But the Tribunal has awarded compensation towards loss of income only for a period of two months. The Tribunal has assessed the notional monthly income of the appellant/claimant at Rs.6,500/-, which in the considered view of this Court is low. Therefore, this Court, enhances the notional monthly income of the appellant/claimant to Rs.10,000/-.

8.After giving due consideration to the year of the accident, which happened in the year 2014, the compensation payable towards loss of income is enhanced to Rs.30,000/-, calculated at Rs.10,000/- per month for a period of three months, instead of Rs.13,000/- assessed by the Tribunal, calculated at Rs.6,500/- per month for a period of two months.



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9.Insofar as the compensation awarded by the Tribunal under various other heads, viz, Transportation, Extra Nourishment and Pain and Sufferings are concerned, the same does not call for any interference by this Court as the compensation awarded by the Tribunal under those heads is a just compensation.

10.For the foregoing reasons, the impugned award passed by the Tribunal is re-worked in the following manner:

S.Nos.	Heads	Amount awarded by this Court
1.	For partial permanent disability (Rs.4,000 x 22)	Rs. 88,000.00
2.	Transport to hospital	Rs. 10,000.00
3.	Extra nourishment	Rs. 5,000.00
4.	Attender charges	Rs. 10,000.00
5.	Pain and sufferings, mental agony	Rs. 30,000.00
6.	Loss of amenities	Rs. 20,000.00
7.	Temporary loss of income (Rs.10,000 x 3)	Rs. 30,000.00
	Total	Rs.1,93,000.00

11.Accordingly, this Civil Miscellaneous Appeal is partly allowed by enhancing the award amount. The second respondent/insurance company is directed to deposit the enhanced award amount of Rs.1,93,000/-, after deducting the amount already deposited, if any,



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together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit and cost to the credit of M.C.O.P.

No.1399 of 2014 on the file of the Motor Accident Claims Tribunal/1st Additional Sub Judge, Cuddalore, within a period four weeks from the date of receipt of a copy of this judgment.

12.The appellant/claimant is permitted to withdraw the said amount, once it is deposited by the second respondent/Insurance Company, by filing an appropriate application. On such application being made, the Tribunal shall transfer the amount lying to the credit of M.C.O.P. No.1399 of 2014 to the bank account of the appellant/claimant directly through RTGS, within a period of one week thereafter.

13.Learned counsel for the appellant/claimant is not pressing this appeal as against the first respondent. She has also made an endorsement to that effect in the Court bundle. Accordingly, this appeal is dismissed as not pressed as against the first respondent. No costs.

12.04.2024



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To

1.The Motor Accident Claims Tribunal/
1st Additional Sub Judge, Cuddalore.

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



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ABDUL QUDDHOSE, J.

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