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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1348 of 2024

Kuppusamy

..Appellant

.VS.

1.Sivalingam

2.The Branch Manager,
The Royal Sundaram General Insurance Company Ltd.,
Old No.113 & 114, New No.18 & 20,
No.4B, 4th Floor, A Block Mena Kampala Arcade,
Sir Theyagaraya Road,
T.Nagar, Chennai.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 25.03.2022 passed in MCOP No.540 of 2018 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Dharmapuri District.

For Appellants : Mr.M.Selvam

For Respondents : Mr.C.Harini for R2



JUDGMENT

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The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.540 of 2018, dated 25.03.2022 has filed this appeal seeking for enhancement of compensation.

2.The case of the claimant is that on 01.06.2018 he was riding his two wheeler at Salem-Krishnagiri National High Road and at about 17:00 hours when the vehicle came near the place of occurrence, the offending vehicle which is a tractor was driven from the opposite direction in a rash and negligent manner and as a result, the tractor hit the two wheeler and the claimant was thrown out of the vehicle and he sustained crush injury on the right leg. He underwent treatment as an inpatient for nearly 22 days. The Medical Board assessed the permanent disability at 70%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.19,00,000/- under various heads as

follows:

<https://www.mhc.tn.gov.in/judis>



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	12,60,000
2.	Medical Bill	5,49,000
3.	Transport to Hospital	31,000
4.	Extra Nourishment	25,000
5.	Pain and Sufferings	35,000
	Total	19,00,000

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.Heard Mr.M.Selvam, learned counsel appearing on behalf of the appellant and Ms.C.Harini, learned counsel appearing on behalf of the 2nd respondent.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.

7.The bone of contention pertains to the notional monthly income that was fixed by the Tribunal. The Tribunal has fixed the notional monthly income at Rs.10,000/- The accident had taken place in the year 2018 and the claimant was a Mason. The Tribunal has found that the injuries sustained by the claimant has



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resulted in functional disability and therefore, has applied the multiplier method. The Tribunal did not have any material to prove the avocation of the claimant and also the income earned by him. However, considering the fact that this accident had taken place in the year 2018 and the claimant was working as a Mason, this Court is inclined to enhance the notional monthly income to Rs.13,000/- per month. Thus, the compensation under the head of disability is calculated as follows:

$$\text{Rs.13,000/-} \times 12 \times 15 \times 70 / 100 = \text{Rs.16,38,000/-}$$

8.The compensation that has been fixed under the other heads are reasonable and it does not require the interference of this Court.

9.In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	16,38,000
2.	Medical Bill	5,49,000
3.	Transport to Hospital	31,000
4.	Extra Nourishment	25,000
5.	Pain and Sufferings	35,000
	Total	22,78,000



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10. The compensation awarded by the tribunal at Rs.19,00,000/- is enhanced to Rs.22,78,000/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.22,78,000/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.3,78,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 197 days as was ordered by this Court in C.M.P.No.1283 of 2023, dated 03.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

19.06.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Motor Accident Claims Tribunal / Chief Judicial Magistrate,
Dharmapuri District.



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N. ANAND VENKATESH., J

SSR

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