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CMA No.1329 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM :

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

C.M.A.No.1329 of 2021

Judgment reserved on 14.02.2024	Judgment pronounced on 19.03.2024
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Arulkumar

...

Appellant

Vs.

1.Mallika

2.The New India Assurance Company Limited

Division office - 3,

No.11-19, 20, 2nd Floor,

Pupils Park Building,

Government Arts College Road,

Coimbatore - 641018.

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Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 02.09.2020 made in MCOP No.903 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.

For Appellant : Mr.D.Ramesh Kumar

For R-1 : No appearance

For R2 : Mr.M.Krishnamoorthy

J U D G M E N T



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The claim petitioner is the appellant herein seeking enhancement of compensation awarded in MCOP No.903 of 2017 dated 02.09.2020 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.

2. The factum of accident, manner of accident, rash and negligent driving on the part of the driver of the vehicle belonging to the 1st respondent, vehicle being insured with the 2nd respondent/insurance company and validity of the policy are not in dispute.

3. On the point of quantum of compensation, heard the learned counsel for the appellant as well as the 2nd respondent / insurance company and perused the records.

4. The date of the accident was 03.08.2017. As per Ex.P7 Aadhar card, the injured was aged about 30 years and he was working as a Mason. As per the directions of the Tribunal, the petitioner had appeared before the Medical Board and filed the disability certificate issued before the Court. As per Ex.P9, he was assessed at 15% permanent disability and hence at the ratio of Rs.4000/- is fixed as permanent disability (Rs.4000x15%=Rs.60,000/-)

5. Considering the nature of injuries and the disability suffered by



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the appellant, the compensation awarded by the Tribunal towards Extra Nourishment, pain & sufferings is enhanced to Rs.10,000/-, Rs.25,000/- respectively. The compensation awarded by the Tribunal towards medical expenses as per Ex.P6 and Transportation to the Hospital are hereby confirmed and the Tribunal has not awarded any amount towards loss of amenities. Hence, a sum of Rs.10,000/- is awarded towards loss of amenities. The claim petitioner did not have work for loss of earning capacity for two months $6000 \times 1\% = \text{Rs.}6000/-$ towards loss of income.

6. The break-up details awarded by this Court is as follows -

<i>Sl. No</i>	<i>Heads under which the amount is awarded</i>	<i>Amount awarded by the Tribunal – Rs.</i>	<i>Amount awarded by this Court – Rs.</i>
1.	Loss of income	----	Rs. 6,000/-
2.	Disability	Rs.45,000/-	Rs.60,000/-
3.	Medical Bills	Rs.72,000/-	Rs.72,000/-
4.	Transport to Hospital	Rs.20,000/-	Rs.20,000/-
5.	Extra Nourishment	Rs.8000/-	Rs.10,000/-
6.	Pain and sufferings	Rs.15,000/-	Rs.25,000/-
7.	Loss of amenities	-----	Rs.10,000/-
	Total	Rs.1,60,000/-	Rs.2,03,000/-

7. In total, the appellant is entitled to a sum of **Rs.2,03,000/-** (Rupees Two Lakhs and Three Thousand only) as compensation.

8. In fine,



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(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from **Rs.1,60,000/- to Rs.2,03,000/-**, to the extent indicated above, along with interest @ 7.5% per annum.

(ii) the second respondent/New India Assurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim petitioner/appellant is permitted to withdraw the entire enhanced award amount, less the award amount if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the appellant is directed to pay the court fee on the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

(v) There shall be no order as to costs.

.....03.2024

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Index : Yes/No

Speaking/Non-speaking order



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To

- 1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Dharmapuri.
- 2.The Section Officer,V.R. Section,High Court, Madras.

RMT.TEEKAA RAMAN, J.



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