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C.M.A.No.511 of 2---

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **05.04.2024**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.511 of 2021

K.Panneerselvam

... Appellant

Vs.

1.Abbu Thahir

2.United India Insurance Company Limited,
Micro Office 1/557, 1st Floor, Upstairs,
ECR Road, Kottivakkam.

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 18.10.2019 made in M.C.O.P. No.6114 of 2016 on the file of the Motor Accident Claims Tribunal, IV Judge, Court of Small Causes at Chennai.

For Appellant : Mr.K.Chandrasekar
for Mr.T.G.Balachandran

For Respondents : Ms.S.R.Rathna Thara
for R2

JUDGMENT

This appeal has been filed by the claimant, seeking enhancement of compensation. The Tribunal under the impugned award has awarded a total compensation of Rs.85,100/- to the appellant / claimant, which is detailed hereunder:



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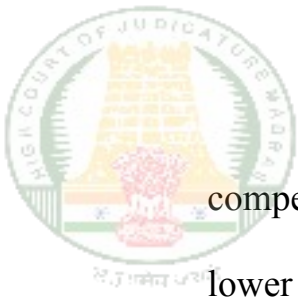


C.M.A.No.511 of 2---

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>
Disability	30,000
Loss of income	12,000
Pain and suffering	15,000
Transportation to Hospital	5,000
Additional Nourishment	5,000
Damages to Clothes	1,000
Attender Charges	2,100
Loss of amenities	15,000
Total	85,100

2. The appellant / claimant had sustained tibia fracture in the left leg and he was unconscious for seven days. The nature of the injuries sustained by the appellant / claimant and the period of hospitalization has also not been disputed by the respondents as seen from the evidence available on record. The accident happened on 12.07.2016. The cause of the accident has also not been disputed.

3. The Tribunal has awarded disability compensation at Rs.30,000/- calculated at Rs.3,000/- per percentage of disability. The appellant / claimant had sustained 10% of disability as seen from the assessment of the Medical Board. This Court, after giving due consideration to the year of the accident, which happened in the year 2016, is of the view that the disability



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compensation awarded to the appellant / claimant at Rs.30,000/- is on the lower side. It has to be enhanced to Rs.50,000/- calculated at Rs.5,000/- per percentage of disability for the 10% of disability sustained by the appellant / claimant.

4. The Tribunal has awarded a compensation of Rs.12,000/- towards loss of income after giving a finding that the notional monthly income of the appellant / claimant at the time of the accident would have been Rs.12,000/-. The Tribunal has assessed that the appellant / claimant would have suffered loss of income only for one month which in the considered view of this Court is not correct in view of the fact that the appellant / claimant was hospitalized for a period of seven days. Therefore, this Court enhances the compensation towards loss of income from Rs.12,000/- to Rs.24,000/- and calculates the loss of income for a period of two months instead of one month. In so far as the compensation awarded by the Tribunal towards pain and suffering, transportation to hospital, additional nourishment, damages to clothing and loss of amenities are concerned, this Court is of the considered view that the compensation awarded by the Tribunal under those heads is a just compensation. However, in so far as the compensation awarded by the



Tribunal towards attender charges at Rs.2,100/- is low, this Court enhances the compensation towards attender charges from Rs.2,100/- to Rs.5,000/-.

5. For the foregoing reasons, the compensation awarded by the Tribunal is reworked in the following manner:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
Disability	30,000	50,000
Loss of income	12,000	24,000
Pain and suffering	15,000	15,000
Transportation to Hospital	5,000	5,000
Additional Nourishment	5,000	5,000
Damages to Clothes	1,000	1,000
Attender Charges	2,100	5,000
Loss of amenities	15,000	15,000
Total	85,100	1,20,000

6. In the result, this Civil Miscellaneous Appeal is **partly allowed** by enhancing the award amount from **Rs.85,100/-** to **Rs.1,20,000/-**. The second respondent/insurance company is directed to deposit the enhanced award amount of **Rs.1,20,000/-**, after deducting the amount already deposited, if any, 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.6114 of 2016** on the file of the **Motor Accident Claims Tribunal, IV**



C.M.A.No.511 of 2---

Judge, Court of Small Causes at Chennai, within a period of **six weeks**

from the date of receipt of a copy of this judgment.

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7. 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 before the Tribunal. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.6114 of 2016** to the bank account of the appellant directly through RTGS, after deducting the amount already transferred to the claimant if any, within a period of **one week** thereafter. No costs.

05.04.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The Motor Accident Claims Tribunal, IV Judge, Court of Small Causes at Chennai.
2. The Section officer, Record Section, High Court of Madras.



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C.M.A.No.511 of 2---

ABDUL QUDDHOSE. J.,

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C.M.A.No.511 of 2021

05.04.2024