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C.M.A.No.2937 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.2937 of 2023

Palaniappan

... Appellant

Vs.

1. Gopal

2. National Insurance Co., Ltd.,
2nd Floor, 81-D Chetty Street, Opp: Bus Stand,
Tiruchengode Town & Taluk, Namakkal District.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 to allow the above Civil Miscellaneous Appeal and enhance the award in the Order dated 09.03.2022 made in M.C.O.P.No.35 of 2016, on the file of the Motor Accident Claims Tribunal/Subordinate Judge Court, Sankari.

For Appellant : Mr.T.S.Arthanareeswaran

For R1 : NDW vide order dated
18.12.2023

For R2 : Ms.N.B.Sureka



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JUDGEMENT

This Civil Miscellaneous Appeal has been filed by the claimant, challenging the quantum of compensation awarded by Subordinate Judge, Sankari, in M.C.O.P.No.35 of 2016.

2. Though the appellant has filed this appeal for enhancement of compensation, however, during the course of arguments, the learned counsel for the appellant submitted that there was total calculation error occurred while passing the order by the Tribunal. Further, he submitted that no amount was awarded under the heads of “Loss of Amenities” and “Future Medical Expenses”. Accordingly, he prays for appropriate enhancement in favour of the appellants.

The heads under which the amount awarded by the Tribunal as follows:

S.NO.	PARTICULARS	TRIAL COURT
1.	15% of disability	15% x 5000 =Rs.75,000/-
2.	Pain and Suffering	Rs.50,000/-
3.	Medical Bills	Rs.54,260/-



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S.NO.	PARTICULARS	TRIAL COURT
4.	Loss of Income	3x5,000= Rs.15,000/-
5.	Extra Nourishments	Rs.15,000/-
6.	Transport Expenses	Rs.10,000/-
7.	Attender Charges	Rs.15,000/-
8.	Cloth Damages	Nil
9.	Loss of Amenities	Nil
10.	Future Medical Expenses	Nil
	Grand Total	Rs.2,19,260/-

3. This Court considered the submissions made by the learned counsel for the appellant and also perused the materials available on record.

4. Though the learned counsel for the appellant made submission that no amount was awarded under the heads of “loss of amenities” and “future medical expenses”. Considering the nature of injuries sustained by the claimant and the treatment undergone by the claimant, this Court is of the view that no amount needs to be awarded under the above heads. Therefore, this Court concludes that the Tribunal has provided just and fair compensation to the appellant, in which, only an arithmetic error has occurred. Accordingly, the total award amount of Tribunal of **Rs.2,19,260/-**, determined by the Tribunal which stands corrected to **Rs.2,34,260/-**. With



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regard to the other aspects, the order of the Tribunal stands confirmed. The award amount of **Rs.2,34,260/-** is rounded off to **Rs.2,35,000/-**, which shall be directed to be paid by the second respondent. The second respondent- Insurance Company is directed to deposit the said amount along with interest and cost, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.35 of 2016 on the file of Subordinate Judge, Sankari. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for withdrawal from the claimant, whichever is later.

5. At this juncture, the learned counsel for the second respondent would submit that there was delay with regard to filing of Civil Miscellaneous Appeal. Since this Court is not inclined to revise the award amount passed by the Tribunal, there is no question of waiver of interest. Therefore, the second respondent has to pay the award amount along with interest as stated supra.



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6. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

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Index : Yes / No

NCC : Yes / No

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To

1. The Motor Accident Claims Tribunal,
Subordinate Judge, Sankari.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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Krishnan Ramasamy,J.,

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