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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1661 of 2024

Murali

... Appellant

.vs.

1.Murasu

2.The New India Assurane Co., Ltd.,
Pappireddipatti Taluk,
Dharmapuri District – 635 303.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order in MCOP No.278 of 2022, dated 22.12.2022, on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge No-II, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mr. N.Krishnamoorthy for R2

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.278 of 2022, dated 22.12.2022 has filed this appeal seeking for enhancement of compensation.



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2. The case of the claimant is that he was travelling in a car on 05.10.2021 which was driven by his brother from Morappur Railway station towards his residence and at about 8 p.m., the driver of the car lost control of the car and dashed the car on the tree. As a result, the claimant sustained the following injuries:

1. Fracture inferior pole of patella left knee.
2. Fracture medial condyle tibia with intra articular extension involving tibial spine anteriorly left knee.
3. Posterior tibial spine avulsion left knee
4. Long oblique fracture shaft of 3rd and 4th meta carpal right hand
5. Intra articular base of 5th metacarpal right hand.

3. The claimant underwent treatment as an inpatient for nearly thirteen days from 06.10.2021 to 18.10.2021 and he underwent atleast four surgeries. The Medical Board assessed the disability at 20% and found that the claimant was having difficulty in squatting, sitting cross-legged and he also had pain in the knee and hand. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.



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4.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 negligence on the part of the driver of the car. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.3,88,780/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Permanent Disability (20% x 5,000)	1,00,000
2.	Pain and Sufferings	20,000
3.	Loss of Amenities	20,000
4.	Medical Expenses	1,77,780
5.	Loss of Income	20,000
6.	Transportation Charges	15,000
7.	Extra Nourishment	15,000
8.	Attender Charges	20,000
9.	Damages to Clothes	1,000
	Total	3,88,780

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



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6.The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

7.Heard Mr.T.S.Arthanareeswaran, learned counsel appearing on behalf of the appellant and Mr.N.Krishnamoorthy, learned counsel appearing on behalf of the 2nd respondent.

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

9.The Tribunal has adopted the per percentage method and fixed a sum of Rs.5,000/- per percentage. The accident had taken place in the year 2021 and this Court is inclined to fix a sum of Rs.8,000/- per percentage. Accordingly, the compensation under the head of disability is fixed at Rs. 1,60,000/- (Rs.8000/- x 20%)

10.The nature of injuries sustained by the claimant has been extracted *supra* and it is found that the claimant had undergone treatment as an inpatient



for nearly 13 days and operations were also performed. In view of the same, this Court is inclined to enhance the compensation under the head of pain and sufferings and extra nourishment to Rs.35,000/- and Rs.25,000/- respectively.

11.The claimant came up with a case that he was working as a conductor in the private bus and was earning a sum of Rs.16,000/- per month. Considering the nature of injuries sustained by the claimant, he would not have been able to undertake any work for atleast three months. The notional monthly income can be fixed at Rs.14,000/-. Accordingly, the compensation under the head of loss of income is fixed at Rs.42,000/- (Rs.14,000/- x 3).

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

13.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Permanent Disability (20% x 8,000)	1,60,000



S.No	Compensation awarded under the head	Amount (in Rs.)
2.	Pain and Sufferings	35,000
3.	Loss of Amenities	20,000
4.	Medical Expenses	1,77,780
5.	Loss of Income	42,000
6.	Transportation Charges	15,000
7.	Extra Nourishment	25,000
8.	Attender Charges	20,000
9.	Damages to Clothes	1,000
	Total	4,95,780

14.The compensation awarded by the tribunal at Rs.3,88,780/- is enhanced to Rs.4,95,780/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.4,95,780/-, 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.1,07,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 271 days as was ordered by this Court in C.M.P.No.8328 of 2024, dated 20.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode



of payment of compensation remains unaltered.

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

15.07.2024

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

To

The Motor Accident Claims Tribunal/Special Subordinate Judge No-II, Salem.



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N. ANAND VENKATESH., J

SSR

CMA No.1661 of 2024

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