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C.M.A.No.2426 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2426 of 2022

Duraisamy

... Appellant

..Vs..

1.Murugadoss

2.The Manager

United India Insurance Company Limited

No.36/11, First Floor,

Ragavan Complex

Ariyalur.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the award and decree dated 22.10.2021 made in M.C.O.P No.48 of 2019 on the file of the Motor Accident Claim Tribunal (Subordinate Judge), Jayankondam.

For Appellant

: Mr.P.Parthi Kannan

For Respondents

: Mr.D.Bhaskaran for R2

No Appearance for R1



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J U D G M E N T

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2. The appellant/claimant had sustained injuries as a result of an accident caused by the vehicle insured with the second respondent.

3. The Tribunal under the impugned award had directed the second respondent/Insurance Company to pay the appellants/claimants a compensation of Rs.3,63,000/- as detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Loss of Income (12000 x 3)	36,000/-
Transport Expenses	8,000/-
Pain and Suffering & mental agony	30,000/-
Extra Nourishment & other needs	5,000/-
Attender charges	8,000/-
Damage to clothing	1,000/-
Future earning capacity	50,000/-
Partial permanent disability (Ex.P7) 45x5000)	2,25,000/-
Total	3,63,000/-



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4. The nature of injuries sustained by the appellant/claimant has not been disputed by the respondent/Insurance Company. The Medical Board assessed the disability of the appellant/claimant at 45% on partial permanent disability basis. The Tribunal has rightly assessed the disability compensation based on percentage basis, after giving due consideration to the nature of the injuries sustained by the appellant/claimant based on the disability certificate issued by the Medical Board. The accident happened in the year 2018. The disability compensation awarded by the Tribunal is Rs.2,25,000/- calculated at Rs.5,000/- per percentage of the disability for the 45% disability suffered by the appellant/claimant. This Court after giving due consideration to the nature of the injuries sustained by the appellant/claimant and the year of the accident, is of the considered view that the compensation awarded by the Tribunal towards disability of the appellant/claimant at Rs.2,25,000/- is a just compensation which does not call for any interference.

5. The Tribunal has correctly awarded the compensation towards transportation, extra nourishment charges, attender charges, damage to



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clothing and loss of future income and there is no scope for further enhancement under those heads. However, the Tribunal has erroneously awarded a lesser compensation towards pain and suffering and towards loss of income for the appellant/claimant during his treatment period. The Tribunal under the impugned award has assessed the notional monthly income of the appellant/claimant at Rs.12,000/- and has awarded a compensation of Rs.36,000/- towards loss of income calculated at Rs.12,000/- per month for a period of three months. This Court is of the considered view that the Tribunal ought to have calculated the compensation towards loss of income for the appellant/claimant for a period of four months instead of three months considering the fact that the nature of the injuries sustained by the appellant/claimant would have disabled the appellant/claimant from doing his regular employment for a minimum period of four months. Accordingly, the compensation awarded by the Tribunal to the appellant/claimant towards loss of income during the period of his treatment is enhanced to Rs.48,000/- calculated at Rs.12,000/- per month for a period of four months instead of three months erroneously calculated by the Tribunal. After giving due consideration to the nature of the injuries



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sustained by the appellant/claimant, this Court is of the considered view that the Tribunal has erroneously fixed the compensation towards pain and suffering at a lesser sum of Rs.30,000/- which has to be necessarily enhanced. This Court enhances the same to Rs.40,000/- instead of Rs.30,000/- erroneously fixed by the Tribunal.

6. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.3,63,000/- to Rs.3,85,000/- as detailed hereunder:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
Loss of Income	36,000/- (12000 x 3)	48,000/- (12000/- x 4)
Transport	8,000/-	8,000/-
Pain and Suffering	30,000/-	40,000/-
Extra Nourishment	5,000/-	5,000 /-
Attender Charges	8,000/-	8,000/-
Damage to clothing	1,000/-	1,000/-
Future earning capacity	50,000/-	50,000/-
Disability	2,25,000/-	2,25,000/-
Total	3,63,000/-	3,85,000/-



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7. In the result, this appeal is partly allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The second Respondent/Insurance Company is directed to deposit the modified award amount i.e, **Rs.3,85,000/-** along with interest and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.48 of 2019 within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount to the bank account of the appellant/claimant along with accrued interest through RTGS within a period of two weeks thereafter. No costs.

25.06.2024

Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking order
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To

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

ABDUL QUDDHOSE, J.

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