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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 31.01.2024	Pronounced on 07.03.2024
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CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2165 of 2021

Palanisamy

...Appellant

Vs.

1. Tamilselvan

2. The Chairman,

Vivekananda Eye Care Hospital, Elaiyampalayam,
Tircuchengode Taluk, Namakkal District.

3. The United India Insurance Co., Ltd.,

D.No.77, Oriental Complex, A.A Street,

Salem - 636 001.

...Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 18.03.2021 made in M.C.O.P.No.1349 of 2019 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge No-I, Salem.



For Appellant : Mr.T.S.Arthanareeswaran
For R1 & R2 : No appearance
For R3 : Mr.J.Chandran

J U D G M E N T

Seeking enhancement of the compensation awarded in M.A.C.T.O.P.No.1349 of 2019, the appellant/claimant has filed this Civil Miscellaneous Appeal.

2. The factum regarding the manner of the accident, rash and negligent driving on the part of the driver of the 1st respondent's vehicle belonging to the 2nd respondent, insured with the 3rd respondent Insurance Company, are not in dispute and hence, the same is hereby confirmed.

3. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

4. On the point of quantum, learned counsel on both sides heard.



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5. Before the Trial Court, the claimant/petitioner Palanisamy examined himself as P.W.1 and marked Exs.P1 to P12 and Disability Certificates and X-rays were marked as Exs.C1 & C2. As per Ex-C1-Disability Certificate, the Medical Board has assessed the disability suffered by the claimant/petitioner/appellant as 25% permanent disability. The accident is of the year 2019. Though the Tribunal has fixed the compensation at Rs.5,000/- for disability, this Court is of the opinion to enhance and the same is fixed at Rs.7,000/- and the compensation for disability is arrived at Rs.1,75,000/- (25 X 7,000).

6. Taking into consideration the nature of injuries sustained by the claim petitioner could be seen from the Discharge Summary - Exs.P3 to P5, this Court is of the view that he should have suffered five months rest and hence, a sum of Rs.75,000/- (5 X 15,000/-) is awarded towards loss of income. As per Ex.P5 - Medical Bill is raised to Rs.1,22,000/-. Based upon Ex.P11 - PAN card and Income Tax return and Bank Passbook, the compensation awarded to the claim petitioner is reassessed as under:-



Sl. Nos.	Heads under which the amount is awarded	Amount awarded by the Tribunal – Rs.	Amount awarded by this Court – Rs.
1	Pain and Suffering	Rs.30,000/-	Rs.50,000/-
2	Loss of Income	5 X 7,500 = Rs.37,500/-	5 X 15,000/- = Rs.75,000/-
3	Medical Bills	Rs.1,22,000/-	Rs.1,22,000/-
4	Transport Expenses	Rs.12,500/-	Rs.15,000/-
5	Extra Nourishments	Rs.12,500/-	Rs.15,000/-
6	Attender Charges	Rs.12,500/-	Rs.15,000/-
7	Damages to clothes	Rs.1,000/-	Rs.1,000/-
8	Loss of Amenities	Rs.25,000/-	Rs.25,000/-
9	25% Disability	25% X 5,000 = Rs.1,25,000/-	25% X 7,000 = Rs.1,75,000/-
10	Future Medical Expenses	Nil	Rs.25,000/-
	Total	Rs.3,78,000/-	Rs.5,18,000/-

In total, the claim Petitioner is entitled to a sum of Rs.5,18,000/- (**Rupees Five Lakhs Eighteen Thousand only**).

7. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from **Rs.3,78,000/- to 5,18,000/-** to the extent indicated above,



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along with 7.5% interest per annum. No costs.

(ii) the 3rd Respondent/ Insurance Company Limited 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 with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

07.03.2024

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Index : Yes/No

Internet : Yes/No

Neutral Citation: Yes/No

Speaking Order: Yes/no



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To

1. The Motor Accident Claims Tribunal,
Special Subordinate Judge, Salem.
2. The Section Officer,
V.R.Section, High Court of Madras, Chennai.



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RMT.TEEKAA RAMAN.J.

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Judgment made in
C.M.A.No.2165 of 2021

Dated: 07.03.2024