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C.M.A.No.321 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.321 of 2021

W.Praveen

... Appellant

Vs.

1.V.Ravichandran

2. Royal Sundaram Alliance Company Ltd.,  
No.127, 2nd Floor, Natesan Nagar,  
Natesan Towers,  
Ellaipillai Chavady,  
Puducherry.

... Respondents

**PRAYER:** Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Award and Decree dated 06.02.2020 made in M.C.O.P. No.193 of 2015 on the file of the Motor Accidents Claims Tribunal, Sub Court, Ranipet, Vellore District.

For Appellant : Mr.C.Prabakaran  
for Mr.M.Sivakumar

For Respondents : Ms.C.Harini  
for R2

No appearance for R1



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C.M.A.No.321 of 2---

## **JUDGMENT**

This appeal has been filed by the claimant, seeking enhancement of compensation. Under the impugned award, the Tribunal has directed the second respondent Insurance Company to pay the appellant / claimant a total compensation of Rs.10,14,300/- as detailed hereunder:

| <i><b>Heads</b></i>              | <i><b>Amount awarded by<br/>the Tribunal in Rs.</b></i> |
|----------------------------------|---------------------------------------------------------|
| Transport to Hospital            | 10,000                                                  |
| Extra Nourishment                | 5,000                                                   |
| Attender Charges                 | 5,000                                                   |
| Medical Bills                    | 8,05,300                                                |
| Damages to clothing and articles | 3,000                                                   |
| Pain and Sufferings              | 30,000                                                  |
| Partial Disability               | 1,56,000                                                |
| <b>Total</b>                     | <b>10,14,300</b>                                        |

2. The appellant / claimant sustained open 3B right distal femur fracture with comminuted patella fracture and fracture of right proximal fibula, as a result of the accident caused by a vehicle insured with the second respondent Insurance Company. The nature of injuries sustained by the appellant / claimant has not been disputed by the second respondent Insurance Company.



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C.M.A.No.321 of 2---

3. The medical board has assessed the disability of the appellant / claimant at 52%. The appellant / claimant had underwent 6 surgeries, as seen from the discharge summary, which has been marked as exhibits before the Tribunal. The fact that the appellant / claimant had underwent 6 surgeries has also not been disputed by the second respondent Insurance Company as seen from the evidence available on record.

4. The appellant / claimant has been hospitalized for a period of 57 days in 4 spells and the period of his hospitalization has also not been disputed by the respondents before the Tribunal. The appellant / claimant had also incurred medical expenses amounting to Rs.8,05,300/- as seen from the impugned award. The Tribunal has also awarded a compensation of Rs.8,05,300/- to the appellant / claimant towards medical expenses incurred by him for his treatment. However, the Tribunal has erroneously, without adopting the multiplier method has awarded a meager disability compensation of Rs.1,56,000/- which was assessed based on percentage basis. The medical board has assessed the disability of the appellant / claimant at 52% after giving due consideration to the nature of injuries sustained by him as a result of an accident caused by a vehicle insured with



the second respondent Insurance Company.

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5. This Court is of the considered view that the Tribunal ought to have adopted the multiplier method. After giving due consideration to the fact that the nature of injuries sustained by the appellant / claimant is grievous in nature, which would have certainly made the appellant / claimant suffer loss of earning capacity, the functional disability of the appellant / claimant has to be assessed at 52% as per the medical board report, which has been marked as exhibit before the Tribunal.

6. The appellant / claimant was a 2nd year B.E. student at the time of the accident. Subsequently, he has also completed his graduation. He has also produced the B.E. certificate before the Tribunal which has been marked as an exhibit.

7. The Tribunal has not fixed the annual income of the appellant / claimant under the impugned award. This Court after giving due consideration to the fact that the appellant / claimant is a B.E. graduate and the year of the accident is 2014, fixes the notional annual income of the



appellant / claimant at Rs.60,000/-. Since this Court has given a finding that the multiplier method will have to be adopted for the purpose of assessing the loss of earning capacity of the appellant / claimant, compensation payable to the appellant / claimant towards loss of earning capacity is fixed at Rs.5,61,600/- as detailed hereunder:

**Calculation of Loss of earning capacity:**

Monthly Income = Rs.5,000/-

Annual Income = Rs.5,000/- x 12 = Rs.60,000/-

Loss of earning capacity = Rs.60,000/- x 18 x 52% = Rs.5,61,600/-.

8. The Tribunal has also erroneously awarded lesser compensation towards transportation, extra nourishment and attender charges. This Court enhances the compensation towards transportation from Rs.10,000/- to Rs.25,000/-, towards extra nourishment from Rs.5,000/- to Rs.20,000/- and towards attender charges from Rs.5,000/- to Rs.25,000/- after giving due consideration to the nature of injuries sustained by the appellant / claimant and the period of his hospitalization.

9. The Tribunal has also erroneously failed to award any compensation towards loss of amenities, which the appellant / claimant is



legally entitled to in view of the injuries sustained by him as a result of an accident cause by a vehicle insured with the second respondent Insurance Company. This Court awards a compensation of Rs.25,000/- to the appellant / claimant towards loss of amenities.

10. The compensation awarded by the Tribunal at Rs.30,000/- towards pain and suffering is a just compensation, which does not call for any interference from this Court. The compensation awarded by the Tribunal towards medical bills amounting to Rs.8,05,300/-, which are supported by medical bills, which have been marked as exhibits before the Tribunal is also confirmed by this Court.

11. For the foregoing reasons, the compensation payable by the second respondent Insurance Company is re-worked in the following manner:

| <b><i>Heads</i></b>   | <b><i>Amount awarded by the Tribunal in Rs.</i></b> | <b><i>Amount awarded by this Court in Rs.</i></b> |
|-----------------------|-----------------------------------------------------|---------------------------------------------------|
| Transport to Hospital | 10,000                                              | 25,000                                            |
| Extra Nourishment     | 5,000                                               | 20,000                                            |
| Attender Charges      | 5,000                                               | 25,000                                            |
| Medical Bills         | 8,05,300                                            | 8,05,300                                          |
| Damages to clothing   | 3,000                                               | 3,000                                             |



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C.M.A.No.321 of 2015

| <i><b>Heads</b></i> | <i><b>Amount awarded by the Tribunal in Rs.</b></i> | <i><b>Amount awarded by this Court in Rs.</b></i> |
|---------------------|-----------------------------------------------------|---------------------------------------------------|
| and articles        |                                                     |                                                   |
| Pain and Sufferings | 30,000                                              | 30,000                                            |
| Partial Disability  | 1,56,000                                            | 5,61,600                                          |
| Loss of amenities   | -                                                   | 25,000                                            |
| <b>Total</b>        | <b>10,14,300</b>                                    | <b>14,94,900</b>                                  |

12. In the result, this Civil Miscellaneous Appeal is **partly allowed** by enhancing the award amount from **Rs.10,14,300/-** to **Rs.14,94,900/-**. The second respondent/insurance company is directed to deposit the enhanced award amount of **Rs.14,94,900/-**, 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.193 of 2015** on the file of the **Motor Accidents Claims Tribunal, Sub Court, Ranipet, Vellore District**, within a period of **six weeks** from the date of receipt of a copy of this judgment.

13. 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.**



C.M.A.No.321 of 2024

**No.193 of 2015** to the bank account of the appellant directly through RTGS,  
within a period of **one week** thereafter. No costs.

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**25.06.2024**

Index : Yes/No  
Speaking Order : Yes / No  
Neutral Citation Case: Yes / No  
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C.M.A.No.321 of 2---

To

1. The Motor Accidents Claims Tribunal, Sub Court, Ranipet, Vellore District

2. The Section officer, Record Section, High Court of Madras.



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C.M.A.No.321 of 2021

**ABDUL QUDDHOSE. J.,**

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**25.06.2024**