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C.M.A.No.3386 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2024

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3386 of 2021

Kailasam

... Appellant

..Vs..

1.Makesh

2.The National Insurance Co. Ltd.,
DO X, Hero Vertical, 101-106 BMC House
Connaught Place, New Delhi-110 001.
Branch Office: Selvanayagi Complex
Perundurai Road, 1st Floor,
Erode-638 011.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 24.03.2020 passed in M.C.O.P No.491 of 2017 on the file of the Motor Vehicle Accident Claims Tribunal / Special District Judge Court, Erode.

For Appellant

: Mr.T.S.Arthanraeeswaran

For Respondents

: No Appearance for R1
Ms.R.Janani
for Mr.J.Chandran for R2



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J U D G M E N T

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2. The Tribunal has directed the second respondent/Insurance Company to pay a compensation of Rs.4,02,484/- to the appellant for the injuries sustained by him, as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent.

3. The details of compensation awarded to the appellant is set out hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Extra Nourishment	10,000/-
Pain and Suffering	45,000/-
15% disability	2,34,000/-
Attender charges	25,000/-
Medical Expenses	88,484/-
Total	4,02,484/-



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4. The appellant/claimant had sustained the following injuries as a result of the accident:

"fracture of both bones in the right leg"

5. The appellant/claimant had taken treatment as an inpatient at Universal Hospital, Salem between 28.02.20217 to 06.03.2017 (seven days). He had also underwent one surgery. The Medical Board who examined the appellant/claimant has assessed the partial permanent disability of the appellant/claimant at 15% and the disability certificate issued by the Medical Board was marked as Ex.C1. The Tribunal accepted the findings of the Medical Board and assessed the partial permanent disability of the appellant/claimant at 15%. The Tribunal after giving due consideration to the nature of the injuries sustained by the appellant/claimant and the period of his hospitalization, has adopted the multiplier method for assessing the disability compensation and has awarded a compensation of Rs.2,34,000/- towards the disability compensation by adopting multiplier method based on the 15% disability assessed by the



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Medical Board. Eventhough the appellant is seeking for enhancement of disability compensation, there is no documentary evidence produced by the appellant before the Tribunal to disprove the assessment of the Medical Board (Ex.C1). While that be so, the question of enhancement of disability compensation will not arise. Hence the Tribunal has rightly fixed the assessment only based upon the medical certificate (Ex.C1) which has assessed the appellant/claimant's disability at 15%.

6. The Tribunal has also awarded a compensation of Rs.10,000/- towards extra nourishment charges, Rs.45,000/- towards pain and suffering, Rs.25,000/- towards attender charges and Rs.88,484/- towards reimbursement of medical bills which in the considered view of this Court is a just compensation.

7. For the foregoing reasons, this Court does not find any infirmity in the findings of the Tribunal and there is no merit in this appeal.



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8. Accordingly, the Award and decree dated 24.03.2020 passed in M.C.O.P No.491 of 2017, on the file of the Motor Accident Claims Tribunal/Special District Court, Erode stands confirmed and this Civil Miscellaneous Appeal stands dismissed. No costs.

15.04.2024

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

1.The Motor Vehicle Accident Claims Tribunal / Special District Judge,
Erode

2.The Section Officer
V.R.Section, High Court of Madras.



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ABDUL QUDDHOSE, J.

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