



C.M.A(MD)No.416 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.416 of 2023

K.Muthuraj

... Appellant

Vs.

1.Murugan

2.Manager,
Cholamandalam M.S.General Insurance
Company Limited,
Madurai Bypass Road,
M.S.R.Complex,
Near ICICI ATM,
Srivilliputhur,
Virudhunagar District.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree, dated 27.09.2022, passed in M.C.O.P.No.183 of 2019 (old MCOP No.225 of 2019) on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Srivilliputhur.

For Appellant	: Mr.P.Edin Brough
For R1	: No appearance
For R2	: M/s.K.R.Shivashankari



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JUDGEMENT

This Civil Miscellaneous Appeal is filed by the claimant.

2.It is a case of injury. The nature of injury is fracture in the thigh. The contention of the claimant is that because of the injury, he was under treatment and he could not do his job for next six months but the Tribunal has taken only four months for loss of income. In order to enhance the loss of income, the learned Counsel appearing for the appellant relied on the treatment given to the injured. Therefore, by taking into consideration of the fact that the appellant was under treatment for the period of six months, then the loss of income ought to be calculated for the period of six months, this Court is increasing the loss of income for six months. Therefore, $\text{Rs.}24,700 \times 6 = \text{Rs.}1,48,200/-$

3. As far as pain and suffering is concerned, the Tribunal has fixed Rs. 20,000/-, this Court is increasing it to Rs.40,000/-. For future medical expenses, the Tribunal has fixed Rs.20,000/-, this Court is increasing it to Rs.40,000/-. As far as extra nourishment is concerned, Tribunal has fixed Rs.10,000/-, this Court is increasing it to Rs.20,000/-. Therefore, the enhanced compensation is as under:



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Sl.No	Head of compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Partial Permanent Disability	Rs.2,75,000/- (confirmed)	Rs.2,75,000/-
2.	Pain and Sufferings	Rs.40,000/- (enhanced)	Rs.20,000/-
3.	Medical Expenses	Rs.1,06,745/-(confirmed)	Rs.1,06,745/-
4.	Future Medical Expenses	Rs.40,000/-(enhanced)	Rs.20,000/-
5.	Loss of Income (Rs.24,700*6)	Rs.1,48,200/- (enhanced)	Rs.98,800/- (Rs.24,700*4)
6.	Extra Nourishment	Rs.20,000/- (enhanced)	Rs.10,000/-
7.	Transportation	Rs.10,000/-(confirmed)	Rs.10,000/-
8.	Attender Charges	Rs.10,000/-(confirmed)	Rs.10,000/-
	Total	Rs.6,49,945/- (enhanced)	Rs.5,50,545/-

The Tribunal has granted pay and recovery and the same is confirmed.

4.The 2nd respondent is directed to deposit Rs.6,49,945/- with interest at the rate of 7.5% per annum (excluding the delay period) and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal. The 2nd respondent entitled to



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recover the same from the 1st respondent herein, by way of filing Execution Petition, without actually filing a suit as held by Hon'ble Apex Court in the judgment reported in **2004 (2) CTC 464 (Oriental Insurance Co., Ltd., vs. Shri Nanjappan and others)**. Since this Court is enhancing the compensation, the claimant is liable to pay the balance Court fee, if any.

5. With the above said observation, the Civil Miscellaneous Appeal is partly allowed. No costs.

26.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Tmg

To

1. Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Srivilliputhur.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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