

C.M.A.(MD) No.503 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.12.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.503 of 2024

P.Sudhakar
Appellant

...

VS.

1.S.Jeevarathinam,

2.Royal Sundaram General Insurance Co.
Represented by its Branch Manager,
having Branch office at No.2,
Kamam Street, Ground Floor,
Velacherry Main Road,
Velacherry Branch,
Chennai.
Respondents

...

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Award, dated 11.09.2023 passed in M.C.O.P.No.293 of 2020, on the file of the Motor Accidents Claims Tribunal/Special Subordinate Court, Tiruchirappalli.



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For appellant	: Mr.M.Muthugeethayan
For Respondent	
for R1	: Dispensed with
for R2	: Mr.S.Srinivasa Raghavan

J U D G M E N T

Not being satisfied with the award passed in M.C.O.P.No.293 of 2020 dated 11.09.2023 on the file of the Motor Accidents Claims Tribunal/Special Subordinate Court, Tiruchirappalli, this Civil Miscellaneous Appeal has been filed by the claimant for enhancement of compensation.

2. Heard the arguments of the learned counsel on either side and perused the relevant records.

3. At trial, to substantiate the claim details, on the side of claimant, two witnesses were examined and 16 documents were marked. On the side of the second respondent, one witness was examined and no document was marked.

4. The Tribunal has awarded compensation of Rs.2,17,000/-



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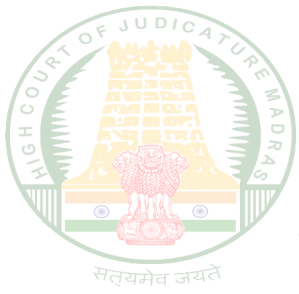
and the break up details is given hereunder:

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S.No	Description	Amount
.		
1	For disability	Rs. 90,000/-
2	For loss of amenities	Rs. 30,000/-
3	For attender charges	Rs. 10,000/-
4	For pain and sufferings	Rs. 50,000/-
5	For transportation charges	Rs. 10,000/-
6	For extra nourishment	Rs. 10,000/-
7	For damages to clothes and other valuables	Rs. 2,000/-
8	For future medical expenses	Rs. 15,000/-
	Total	Rs. 2,17,000/-

5. The learned counsel for the appellant/claimant would submit that for the medical expenses, though the claimant admittedly have reimbursed through Star Health and Life Insurance Co. Ltd, some amount remains unpaid and that amount was not granted by the Tribunal.

6. His next limb of the argument is that considering the nature of the injuries suffered by the claimant, Rs.7,000/- per percentage may be granted. It is his further argument that the Tribunal did not grant any amount for loss of earning during the treatment period.



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7. It is the evidence of P.W.1 that on account of the accident that occurred on 04.09.2020, he suffered fracture of left tibia and fibula and he was under treatment as an inpatient from 04.09.2020 to 17.09.2020 and thereafter, from 22.02.2022 to 25.02.2022 at Kauvery Hospital. As per the medical receipt, the bill amount is Rs. 2,94,466/-, which is marked as Ex.P5.

8. The Tribunal has held that since P.W.1 has admitted that he has reimbursed the medical expenses as per Ex.P5, no amount was ordered towards the medical expenses. A thorough perusal of Ex.P5, the medical receipts and the enclosures, it appears that the total bill amount is Rs.2,94,460/-. He is the beneficiary of mediclaim under Star Health and Life Insurance Co. Ltd. and he has reimbursed an amount of Rs.2,08,466/- through Star Health Insurance and the claimant has paid the remaining amount of Rs. 86,000/-. Therefore, for medical expenses, based on Ex.P5, the amount paid by the claimant to the hospital is Rs.86,000/- and therefore, less the amount reimbursed from Star Health and Life Insurance Co. Ltd, an amount of Rs.86,000/- is awarded towards medical expenses.

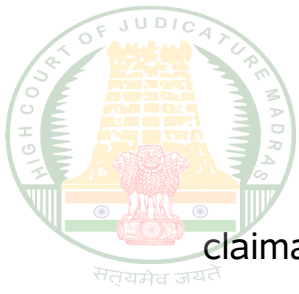


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WEB COPY 9. From the discharge summary/Ex.P2 and P3, it appears that the claimant suffered open grade III B segmental fracture of tibia and fibula left, for which nailing tibia was done on 05.09.2020. He had undergone fasciotomy and closure on 09.09.2020 and the skin grafting from right thigh was done on 16.09.2020. Based on the same, the disability was fixed at 18% by the Medical Board and the Tribunal has granted Rs.5,000/- per percentage for partial permanent disability.

10. Upon consideration of the fracture suffered, the effects upon the claimant, this Court deems it fit to award Rs.6,000/- per percentage and for partial permanent disability, an amount of Rs. 18,000/- is granted in addition to the amount already granted by the Tribunal.

11. It is the evidence of P.W.1 that he was on leave for 129 days and to that effect Ex.P11/leave certificate is marked. As regards the leave particulars, it is the evidence of P.W.2/Konnatchi, who is working as an Assistant in the Accounts Section that the



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claimant was on medical leave from 07.09.2020 to 02.11.2020 due

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to the said accident and he has given the entire details. As per

Ex.P11, in which it is stated that the claimant has availed medical leave for 70 days and earned leave for 59 days. Therefore, on account of the fracture suffered due to the accident, he has availed those leaves and the same is clearly reflected in his leave account. Therefore, those days, that were taken for the treatment, has to be construed as loss of income. His monthly income was Rs.42,139/- p.m., as per Ex.P8 and his income is fixed at Rs.40,000/-. Therefore, he is entitled for loss of income for a period of four months.

12. Upon consideration of the evidence of P.W.1, P.W.2 coupled with Exs.P11/leave certificate and the treatment records/Exs.P3 and P4, for loss of income for the treatment period of four months, an amount of Rs.1,60,000/- is awarded (RS. 40,000/- x 4 months). As regards other needs, the amounts awarded by the Tribunal appears to be reasonable and acceptable and hence, it needs no interference.



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13. The compensation awarded by the Tribunal is reworked

and tabulated hereunder:

S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For disability	Rs. 90,000/-	Rs. 1,08,000/-	Enhanced
2	For loss of amenities	Rs. 30,000/-	Rs. 30,000/-	Confirmed
3	For attender charges	Rs. 10,000/-	Rs. 10,000/-	Confirmed
4	For pain and sufferings	Rs. 50,000/-	Rs. 50,000/-	Confirmed
5	For transportation charges	Rs. 10,000/-	Rs. 10,000/-	Confirmed
6	For extra nourishment	Rs. 10,000/-	Rs. 10,000/-	Confirmed
7	For damages to clothes and other valuables	Rs. 2,000/-	Rs. 2,000/-	Confirmed
8	For future medical expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
9	For loss of income during treatment period	---	Rs.1,60,000/-	Granted
	Total	Rs. 2,17,000/-	Rs.3,95,000/-	Enhanced by Rs.1,78,000/-

14. In the result,

(I) The Civil Miscellaneous Appeal stands partly allowed. No costs.



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(ii) The compensation awarded by the Tribunal is enhanced

from Rs.2,17,000/- to Rs.3,95,000/-.

(iii) The Insurance Company/second respondent is directed to deposit the compensation amount i.e., Rs.3,95,000/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs to the credit of M.C.O.P.No.293 of 2020 on the file of Motor Accidents Claims Tribunal / Special Sub Court, Tiruchirappalli within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant/appellant is permitted to withdraw the award amount along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v) The claimant/appellant is directed to pay the Court fee for the enhanced compensation amount, if required.



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(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

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

To

1.The Motor Accidents Claims Tribunal / Special Sub Court,
Tiruchirappalli.

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



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R.KALAIMATHI,J

apd

Pre-delivery order made in
C.M.A.(MD) No.503 of 2024

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