



CMA(MD).No.40 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.M.A. (MD).No.40 of 2022

Haja Mydeen

... Appellant

Vs

1. Haja Mohideen,

2. United India Insurance Company Limited,
Through its Branch Manager,
Office at No. 903/1,
Tenkasi Madurai Road,
Near Panchayat Union Office,
Kadayanallur.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree made in M.C.O.P. No. 910 of 2015 on the file of the Motor Accident Claims Tribunal, (Special Sub Court Dealing with MCOP Cases), Tirunelveli, dated 23.01.2021.

For Appellant : Mr. T.Selvakumaran

For R1 : No Appearance

For R2 : Mr.N.Dilipkumar



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JUDGMENT

The claimant has preferred this appeal against the order passed by the Tribunal.

2. It is the case of injury. After analysing the evidence, the Tribunal has granted the award of Rs.2,49,510/-. The contention of the claimant is that the amount is on the lower side, hence the claimant has preferred this appeal for enhancement.

3. The learned Counsel appearing for the claimant submitted that the injured had sustained serious injuries, wherein he had sustained multiple fractures all over his body and he is also suffering from brain haemorrhage. Due to these injuries, the injured is suffering severe pain, he could not carry out his daily routine work. Due to brain haemorrhage, his brain is not active and his memory is skipping on and off.

4. Therefore, this Court is of the considered opinion that the compensation should be enhanced and the same is enhanced as under:



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S. No.	Head of Compensation	Award granted by the Tribunal	Modified award granted by this Court
1.	Disability	Rs.60,000/-	Rs.80,000/- (enhanced)
2.	Attendant Charges	Rs.5,000/-	Rs.15,000 /- (confirmed)
3.	Pain and Suffering	Rs.30,000/-	Rs.30,000/- (confirmed)
4.	Extra Nourishment	Rs.30,000/-	Rs.30,000/- (confirmed)
5.	Loss of Convenience	Rs.30,000/-	Rs.30,000/- (confirmed)
6.	Transport Charges	Rs.5,000/-	Rs.5,000/- (confirmed)
7.	Loss of Income	Rs.7,000/-	Rs.8,000/- (enhanced)
8.	Medical Expenses	Rs.82,510/-	Rs.82,510/- (confirmed)
Total compensation granted by this Court		Rs.2,49,510/-/-	Total = Rs.2,80,510/- (enhanced)

5. The second respondent Insurance Company is directed to deposit Rs.2,80,510/- (Rupees Two Lakh Eighty Thousand Five Hundred and Ten only) 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



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from the date of receipt of a copy of this judgment. If the second respondent did not pay the enhanced amount within the time stipulated by this Court, then the compensation carries interest at the rate of 7.5% per annum. 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 Insurance Company is entitled to recover the same from the owner of the vehicle / 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)*.

6. With the above said modification, this Civil Miscellaneous Petition is partly allowed. No costs.

07.02.2024

Index : yes / No
Internet : yes / No

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S.SRIMATHY, J.

jbr

To

- 1.MACT (Special Sub-Court),
Tirunelveli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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