



C.M.A(MD)No.1493 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1493 of 2016

P.Kumar

... Appellant

Vs.

1.P.Surendran

2.The United India Insurance Company Limited,
Represented by Duly Constituted Attorney,
Madurai,
having Office at Santanaria 1st floor,
Chockkalinga Nagar,
Bye Pass Road, Madurai – 625 010.

... Respondents

(1st Respondent was exparte in the lower Court,
hence notice may be dispensed with)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgement and decree passed in M.C.O.P No.687 of 2014, dated 25.02.2015, on the file of the Motor Accident Claims Tribunal, Special Sub-Court, Madurai.

For Appellant	: Mr.C.Godwin
For R2	: S.Royce Immanuel
R1	: Exparte



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JUDGMENT

The claimant has filed this Civil Miscellaneous Appeal.

2.It is a case of injury. The contention of the claimant is that the Tribunal has given lesser amount under all the heads. After perusing the impugned order this Court accepts the contention of the appellant and inclined to increase the compensation.

3. As far as transport to the hospital is concerned, this Court is inclined to increase the same from Rs.2,000/- to Rs.5,000/-. As far as extra nourishment is concerned, the same is increased by this Court from Rs.5,000/- to Rs.10,000/-. As far as pain and suffering is concerned, this Court is increasing the same from Rs. 10,000/- to Rs.20,000/-.

4. As far as medical expenses are concerned the Tribunal has declined the same for the sole reason that the claimant could not produce any evidence showing that the claimant has not recovered the said amount from the group insurance of the Bar Council. The learned Counsel appearing for the claimant had



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produced a letter, which was obtained under RTI Act, wherein the Bar Council has stated that the claimant has not availed any benefit under the group insurance for any medical expenses. Therefore, this Court is accepting the said letter. Hence, the order passed by the Tribunal ought to be modified. As far as the medical expenses is concerned and the claimant is entitled to Rs.43,350/- apart from Rs.14,750/-. Hence, this Court is increasing the medical expenses from Rs.14,750/- to Rs.58,100/- (Rs.43,350/- + Rs.14,750/-).

5. As far as partial permanent disability is concerned the disability is fixed as 28%. This Court is fixing Rs.5,000/- per percentage of disability. Hence, for partial permanent disability, this Court is increasing the same from Rs.84,000/- to Rs.1,40,000/- (Rs.5,000/- * 28). This Court is inclined to increase the compensation as stated supra.

6. The learned Counsel appearing for the 2nd respondent objected to the same. However, the objections are unnecessary, since this Court is fixing the nominal increase which was granted in several judgments.

7. The learned Counsel appearing for the 2nd respondent further submitted



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that the claimant is responsible for the accident as stated in the FIR and accident report, inspite of the same, the Tribunal has not fixed the contributory negligence on the claimant. But it is seen the 2nd respondent has not filed any appeal or cross appeal before this Court. However, since the claimant is an Advocate, some responsibility should be fixed on the Advocate as well. Therefore, this Court is deducting Rs.10,000/- for contributory negligence.

8.The modified award amount granted by this Court is as under:

Sl. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Loss of Income	Rs.30,000/-	Rs.30,000/-	Confirmed
2.	Transport	Rs.2,000/-	Rs.5,000/-	Enhanced
3.	Extra Nourishment	Rs.5,000/-	Rs.10,000/-	Enhanced
4.	Damage of Clothes and articles	Rs.2,000/-	Rs.2,000/-	Confirmed
5.	Loss of Amenities	Rs.10,000/-	Rs.10,000/-	Confirmed
6.	Medical Expenses	Rs.14,750/-	Rs.58,100/-	Enhanced
7.	Pain and Suffering	Rs.10,000/-	Rs.20,000/-	Enhanced
8.	Partial Permanent Disability	Rs.84,000/-	Rs.1,40,000/-	Enhanced
	Total	Rs.1,57,750/-	Rs.2,75,100/-	
	Deducting contributory negligence	Nil	-Rs.10,000/-	
	Total	Rs.1,57,750/-	Rs.2,65,100/-	Enhanced

Thus, the total compensation granted by the Tribunal to the tune of Rs.1,57,750/- is enhanced to Rs.2,65,100/- by this Court.



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9. The 2nd respondent Insurance Company is directed to deposit Rs. 2,65,100/- (Rupees Two Lakh Sixty Five Thousand One Hundred only) with interest at the rate of 7.5% per annum 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 six 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. Since this Court is enhancing the compensation, the claimants are liable to pay the balance Court fee, if any.

10. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

18.06.2024

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

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- 1.The Motor Accident Claims Tribunal,
Special Sub-Court, Madurai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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