

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.M.A.No.732 of 2011

D.Sebastin

... Appellant/Petitioner

Vs.

1. R.Vijaya Raghavan

2. The New India Assurance Co.,Ltd.,
No.45, Moore Street,
Chennai-1.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 07.01.2011 passed in M.A.C.T.O.P.No.1894 of 2003, on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai.

For Appellant : Mr.F.Terry Chellaraja

For R2 : Mr.G.Udayasankar
R1 - Exparte

JUDGMENT

Being not satisfied with the award passed by the Tribunal, the claimant has filed this appeal seeking enhancement of compensation.

2.It is revealed from the records that on 24.02.2003 at 11.a.m., while the petitioner was walking at Kamarajar Salai, Nepier Bridge, he met with an accident involving the vehicle bearing Registration No.TN.07-A-1283 and on account of which, the petitioner had suffered with dislocation of shoulder joint. Claiming a sum of Rs.1,50,000/- he had moved the claims Tribunal, Chennai with a claim petition.

3.The second respondent alone had contested the claim of the appellant. Based on the evidence available on record, the

Claims Tribunal had proceeded to award a total amount of Rs.41,700/- towards the compensation under the following heads:-

i) Transportation	Rs. 1,000/-
ii) Extra nourishment	Rs. 1,000/-
iii) Medical Expenses	Rs. 4,700/-
iv) Pain and suffering	Rs.10,000/-
(v) towards the permanent disability (25%) (Rs.2,000/- per 1%)	Rs.25,000/-

Total	Rs.41,700/-
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4. Mr.F.Terry Chellaraja, learned counsel appearing for the appellant has submitted that the award passed by the tribunal was not in proportionate with disability of the claimant and further, the compensation awarded under various heads by the Tribunal were also not in consonance with injuries sustained by the claimant and hence, urged this court to enhance the compensation.

5. On the other hand, the learned counsel appearing for the appellant has fairly submitted that the compensation awarded by the tribunal to the extent of Rs.25,000/- under the head of permanent disability might be enhanced to Rs.50,000/- at the rate of Rs.2,000/- per 1% per percentage. However, the learned counsel for the appellant has submitted that the compensation duly awarded under the heads of transportation, extra nourishment and pain and suffering might also be enhanced so as to get the just compensation.

6. Considering this aspect, this Court finds that enhanced compensation may be awarded as under.

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this Court
1	Transportation	Rs. 1,000/-	Rs. 2,500/-
2	Extra Nourishment	Rs. 1,000/-	Rs. 5,000/-
3	Medical Expenses	Rs. 4,700/-	Rs. 4,700/-
4	Pain and Suffering	Rs. 10,000/-	Rs. 15,000/-
5	Permanent Disability	Rs. 25,000/-	Rs. 50,000/-
	Total	Rs. 41,700/-	Rs. 77,200/-

Therefore, the petitioner is entitled to get the enhanced compensation to the extent of Rs.77,500/- .

7. It is submitted by the learned counsel for the second respondent that he had already deposited the entire award amount before the Tribunal. Now the second respondent is ready to pay the enhanced compensation to the extent of Rs.35,500/- with the interest at the rate of 7.5% p.a. within a period of four weeks from the date of petition till the date of deposit.

8. It is brought to the notice of this Court that the appellant had already withdrawn the award amount along with accrued interest and now, on making such deposit, i.e., the enhanced amount of Rs.35,500/- along with the interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, the appellant/claimant is at liberty to withdraw the same along with the accrued interest from the Claims Tribunal without filing any formal application seeking permission.

9. In the result, the civil miscellaneous appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kkd

To

The Motor Accident Claims Tribunal
III Court of Small Causes,
Chennai.

+1cc to M/s.Malar, Advocate, S.R.No.30781
+1cc to Mr.G.Udayasankar, Advocate, S.R.No.30795

C.M.A.No.732 of 2011

MG(CO)
CA(20/07/2016)

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