

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE **PUSHPA SATHYANARAYANA**

C.M.A.No.54 of 2015

Mohan Kumar

.. Appellant

-Vs.-

1. Ramachandiran @ Kumar
2. Manikandan
3. The Oriental Insurance Company Ltd
Rep by its Branch Manager,
First Floor, Gopal Rao Library Building,
Town Hall Road, Kumbakonam.

.. Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 04.04.2012 in M.A.C.T.O.P.No.60 of 2011 on the file of the Motor Accident Claims Tribunal at Karaikal, in so far as it relates to the quantum of compensation.

For appellant ... Mr.G.K.Ilanthirayan for
M/s.Sai, Bharath and Ilan

For respondent-3 ... Mr.S.Jayaram

JUDGMENT

The injured in an accident, is the claimant before this Court seeking enhancement of compensation awarded by the Tribunal.

2. The accident occurred on 11.01.2011. The Tribunal has held that the offending vehicle was negligent and the accident was only due to the rash and negligent driving of the first respondent's motor cycle.

3. While awarding the compensation, the Tribunal discussed the injury sustained on the claimant. As per Ex.P2-Accident Register, it was diagnosed as fracture of both bones in right leg and injured had been taking treatment as an in-patient in the General Hospital, Chennai. PW2 Doctor had been examined, who issued the disability certificate. As per the certificate, the disability is assessed at 30%. Other than the said records, there is no document available to claim enhancement of award. The Motor Accident Claims Tribunal had awarded a sum of Rs.92,865/- as compensation with interest 7.5% per annum on the following heads.

<i>Heads</i>	<i>Amount in(Rs.)</i>
Partial permanent disability	30,000/-
Pain and Sufferings	25,000/-
Extra nourishment	5,000/-
Medical Expenses	27,865/-
Transportation Charges	5,000/-
Total	92,865/-

The said award is now under challenge in the above appeal.

4. The learned counsel for the Claimant would contend that the total amount of compensation awarded by the Tribunal is very low and the same needs to be enhanced.

5. Heard the learned counsel for the appellant/claimant and the learned counsel for the third respondent - Insurance Company and perused the materials available on record.

6. As per Ex.P21-Disability certificate, the petitioner has sustained 36% disability. During the cross examination, P.W.2-Doctor has deposed that the disability can be reduced by doing physiotherapy and further, he has not issued the disability certificate as per the

Central Government guidelines and assessed the partial permanent disability at 30% and accordingly, the Tribunal has awarded a sum of Rs.30,000/- at the rate of Rs.1,000/- per percentage. Considering the said fact there was a fracture of both bones in the right leg, this Court is inclined to enhance the compensation under the head "Partial permanent disability" fixing the same at 30% and granting Rs.3,000/- for each percentage, which will come to Rs.90,000/-. It is seen that P.W.-2- Doctor, the author of Ex.P.21 has issued an estimation certificate in Ex.P22 for implant exit, which will cost around Rs.50,000/- for surgical and hospital expenses and the Tribunal awarded a sum of Rs.27,865/- for medical expenses. However, this Court, now rounded off it to Rs.30,000/- under the head "medical expenses". As the petitioner has produced the transportation bills under Ex.P.16 for to and fro trips to Karaikal to Mayiladuthrai, the Tribunal had awarded a sum of Rs.5,000/- under the head "transportation charges", which is very low and the same has to be enhanced. Considering the same, the amount awarded by the Tribunal for Transportation is now enhanced to Rs.10,000/-. So far as the other heads "pain and sufferings" and "extra nourishment" are concerned, the award passed by the Tribunal is confirmed. Accordingly, the compensation awarded by the Motor Accident Claims

Tribunal is revised as follows:-

<i>Heads</i>	<i>Amount in(Rs.)</i>
Partial permanent disability 3000 x 30	90,000/-
Pain and Sufferings	25,000/-
Extra nourishment	5,000/-
Medical Expenses	30,000/-
Transportation Charges	10,000/-
Total	1,60,000/-

7. According, the Civil Miscellaneous Appeal is partly allowed and the amount awarded by the Tribunal is enhanced from Rs.92,865/- to Rs.1,60,000/- payable with interest at the rate of 7.5% per annum from the date of claim petition till the date of payment. The third respondent-Insurance Company is directed to deposit the said amount within a period of four weeks from the date of receipt of a copy of this judgment and the claimant is entitled to withdraw the same forthwith. No costs.

24.03.2017

srn

To

1. The Motor Accident Claims Tribunal,
Karaikal
2. The Record Keeper,
High Court, Madras

PUSHPA SATHYANARAYANA.J

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