

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.40 of 2015

G.Sam Jabaraj

.. Appellant/Petitioner

Vs.

1. M/s.Sical Logistics Ltd.,
Asst. Vice President (T) S.Solayappan,
No.23/53, 2nd Cross Street, K.P.N. Extension,
Bangalore - 560 002.
2. The Manager,
Reliance General Company Ltd.,
'Reliance House', 6th Floor,
No.6, Haddows Road, Nungambakkam,
Chennai - 600 006. ... Respondents/Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.09.2014 made in M.C.O.P.No.4816 of 2011 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.A.A.Venkatesan

For R1 : Mr.S.Gopinathan

For R2 : Mr.S.Arunkumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 24.09.2014 made in M.C.O.P.No.4816 of 2011 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

2.The appellant is claimant in M.C.O.P.No.4816 of 2011 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai. He filed the above claim petition

claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 22.09.2011.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the lorry belonging to the first respondent and directed the second respondent/Insurance Company, being the insurer of the lorry, to pay a sum of Rs.2,99,982/- as compensation to the appellant.

4.Not being satisfied with the award amount granted by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellant/claimant contended that P.W.3/Doctor has certified that percentage of disability of the appellant is 60%. The Tribunal has not considered the disability certificate issued by P.W.3/Doctor and erroneously reduced the same to 55% and awarded meager amount as compensation towards disability. The amounts awarded by the Tribunal under different heads are meager and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the respondents 1 and 2 separately contended that the Tribunal considered all the materials on record and granted just compensation under various heads. There is no reason for enhancement of compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellant as well as the respondents 1 and 2 and perused all the materials available on record.

8.From the materials on record, it is seen that P.W.3/Doctor issued disability certificate stating that the appellant suffered 60% permanent disability. The Tribunal considering the nature of injuries and treatment taken by the appellant, held that percentage of disability as certified by the Doctor is excessive and reduced the same to 55% from 60%. There is no error in the reasoning of the Tribunal warranting interference by this Court. The Tribunal has granted a sum of Rs.1,800/- per percentage and the same is meager. The appellant is entitled to a sum of Rs.3,000/- per percentage and the compensation awarded by the Tribunal towards permanent disability is modified as $\text{Rs.3,000} \times 55 = \text{Rs.1,65,000/-}$. The amounts awarded by the Tribunal under different heads are not meager and hence, they are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	30,000	30,000	confirmed
2.	Transportation	25,000	25,000	confirmed
3.	Extra nourishment	25,000	25,000	confirmed
4.	Damage to clothing	500	500	confirmed
5.	Medical Expenses	50,482	50,482	confirmed
6.	Loss of amenities	10,000	10,000	confirmed
7.	Pain and Suffering	60,000	60,000	confirmed
8.	Permanent Disability	99,000	1,65,000	enhanced
	Total	2,99,982	3,65,982	enhanced by Rs.66,000

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,99,982/- is hereby enhanced to Rs.3,65,982/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The second respondent/Insurance Company is directed to deposit the enhanced award amount with interest now determined by this Court, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the enhanced award amount with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

krk/kj

To

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

Copy To

The Section Officer,
VR Section, High Court,
Madras-104 (2 Copies)

+1cc to Mr.A.A.Venkatesan, Advocate, S.R.No.80690
+1cc to Mr.S.Gopinathan, Advocate, S.R.No.80787
+1cc to Mr.S.Arunkumar, Advocate, S.R.No.81492

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AK(CO)
CS/14/02/2019



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