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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.3620 of 2014

K.R.Saikumar

.... Appellant/Petitioner

-vs-

1.C.Vellaisamy

(R1 remained ex parte before the Tribunal)

2.The New India Assurance Co. Ltd.,
No.375, Saidapet, Chennai -15.

.... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 18.07.2014 made in M.C.O.P.No.1735 of 2012 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.F.Terry Chellaraja

For Respondents: Ms.Harini for

M/s.M.B.Gopalan & Associates for R2

J U D G M E N T

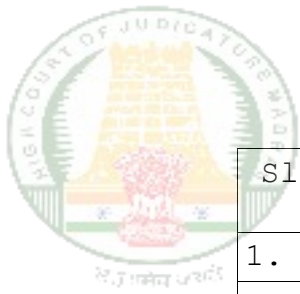
[Judgment of the Court was delivered by
R.SUBRAMANIAN,J.]

The claimant who was awarded a sum of Rs.16,20,663/- as compensation for the injuries suffered by him in a motor accident that occurred on 03.01.2012 is before us seeking enhancement of compensation.

2. We have heard Mr.F.Terry Chellaraja, learned counsel for the appellant and Ms.Harini, learned counsel for the second respondent Insurance Company.

3. The appellant was referred to the Medical Board and the Medical Board has assessed the functional disability at 80%.

4. The Tribunal has awarded the following amounts under different heads:-



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Sl.No.	Heads	Amount (Rs.)
1.	Transport to Hospital	25,000
2.	Extra Nourishment	30,000
3.	Damage to Clothing	1,000
4.	Medical Expenses	13,00,663
5.	Attender Charges	10,000
6.	Loss of Amenities	10,000
7.	Pain and Suffering	1,00,000
8.	Disability at 80% at Rs.1,800/- per percentage	1,44,000
	Total	Rs.16,20,663

5. Mr.F.Terry Chellaraja, learned counsel for the appellant would contend that the amount awarded towards disability should have been Rs.3000/- per percentage and no amount towards loss of earning power has been granted.

6. Admittedly, the appellant continued in the same employment. Therefore, there is no loss of earning power. Though the learned counsel would contend that the appellant has lost his promotional prospects, considering the age of the appellant at the time of accident viz., 52 years and the age of superannuation is 58 years, we do not think that he has lost any promotional avenue. We find that the adoption of Rs.1800 per percentage of permanent disability is on the lower side. Hence, we fix Rs.3000 per percentage. If disability is taken as 80%, the appellant would be entitled to Rs.2,40,000/- for the permanent disability suffered by him.

7. The compensation awarded by the Tribunal for the following heads viz., Transportation, Extra Nourishment, Damage to Clothing, Medical Bills and Pain and Suffering are sustained.

8. The Tribunal has granted a sum of Rs.10,000/- towards Attender charges. Admittedly, the appellant was in patient for about 45 days. Therefore, the attender charges is increased to Rs.20,000/-. The Tribunal has awarded only Rs.10,000/- towards loss of amenities. The same is increased to Rs.25,000/-.



9. Thus, the total compensation is as follows :-

Sl.No.	Heads	Amount (Rs.)
1.	Disability - 3000 x 80%	2,40,000
2.	Transport	25,000
3.	Extra Nourishment	30,000
4.	Damage to Clothing	1,000
5.	Medical Bills	13,00,663
6.	Attender Charges	20,000
7.	Loss of Amenities	25,000
8.	Pain and Suffering	1,00,000
9.	Loss of Income for 2 months	1,39,582
	Total	18,81,245

Rounded off to Rs.18,81,000/-

10. In the result, the Civil Miscellaneous Appeal is Partly Allowed as follows:-

(i) The award of the Tribunal is enhanced from Rs.16,20,663 /- to Rs.18,81,000/-.

ii) The second respondent/Insurance Company is directed to deposit the enhanced award amount, less the amount, if already deposited with interest at the rate of 7.5% with proportionate costs within a period of four weeks from the date of receipt of a copy of this judgment.

(iii) On such deposit, the claimant is permitted to withdraw the amount with proportionate costs and interest by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursal of the amount as stated supra on filing of such application.



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(iv) The appellant shall pay necessary court fee before receiving the copy of this judgment for the enhanced compensation amount, if any.

No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

svki

To

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

Copy to:

The Section Officer,
VR Section, High Court, Madras.

+1cc to M/s.M.B.Gopalan & Associates, Advocate sr.no.60258

+1cc to M/s.M.Malar, Advocate sr.no.59738

CMA No.3620 of 2014

sai(co)
nr 02/04/2019