

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1222 of 2010

S.Ravi

.. Appellant/Petitioner

..Vs..

1.V.Prabakaran
(was set exparte in the Trial Court)

2.United of India Insurance Co.Ltd.,
Chander Plaza, 1st Floor,
No.48, Arcot Road Saligramam,
Chennai 600 093.

..Respondents/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 07.11.2009 made in MACT.O.P.No.1239 of 2006 on the file of the II Judge, Motor Accidents Claims Tribunal, (Court of Small Causes), Chennai.

For Appellant : Mr.Swamikannu

For Respondent 2 : Mrs.R.Srividhya

R1 : No Appearance

J U D G M E N T

The instant appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 07.11.2009 passed by the Motor Accident Claims Tribunal in M.C.O.P.No.1239 of 2006.

The brief facts leading to the filing of the instant appeal are as follows:

2. The Appellant sustained injuries as a result of an accident that took place on 20.01.2006, caused by a vehicle bearing Registration No.TN09-AL-1413 insured with the second respondent. The Appellant preferred a compensation claim before the Motor Accident Claims Tribunal in M.C.O.P.No.1239 of 2006 seeking a compensation of Rs.7,00,000/- for the injuries sustained by him as a result of the above said accident. The

Motor Accident Claims Tribunal by its award dated 07.11.2009 in M.C.O.P.No.1239 of 2006 directed the second respondent to pay the Appellant a Sum of Rs.1,28,350/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization and also awarded costs.

3. Aggrieved by the Award dated 07.11.2009 in M.C.O.P.No.1239 of 2006, the instant appeal has been filed by the claimant seeking enhancement of compensation.

4. Heard Mr.Swamikannu learned counsel for the appellant and Mrs.R.Srividhya, learned counsel for the second respondent/insurance company.

5. According to the learned counsel for the appellant, the quantum of compensation awarded by the Tribunal under the impugned award is inadequate and not a just compensation. The learned counsel for the appellant submits that even though the appellant had claimed a sum of Rs. 7,00,000/-, the Tribunal has awarded only a sum of Rs.1,28,350/-. According to the learned counsel, a higher compensation will have to be awarded under the heads transportation, pain and suffering and disability. According to the learned counsel for the Appellant, the Tribunal did not consider the fact that the Appellant's movement in the knee and ankle has been impaired to a major extent, due to the accident and awarded only a sum of Rs.20,000/- under the head disability.

7. Per contra, the learned counsel for the second respondent/ insurance company would submit that the compensation awarded by the Tribunal under the impugned award is a just compensation.

8. This Court after having considered the materials available on record and after having examined the impugned award and after hearing the submissions of the respective counsels, observes the following: सत्यमेव जयते

a) The nature of injuries sustained by the appellant as a result of the accident is not in dispute.

b) The quantum of compensation awarded to the appellant was assessed by the tribunal only based on the statement of the appellant that he was earning monthly salary of Rs.6,000 at the time of accident.

c) The only infirmity found in the award is that even though the disability of the appellant was established at 20% as seen from the disability certificate which was marked as Ex.P9, the Tribunal has awarded only a sum of Rs.20,000/- under the

head disability. The appellant was an LIC Agent and the Tribunal having assessed the monthly income of the Appellant at Rs.6,000/-ought to have granted a much higher compensation for the disability suffered by him, as a result the accident. In the considered view of this court, a sum of Rs. 40,000/-calculated at the rate of Rs.2,000/- per percentage of disability will be a just and reasonable compensation under this head. In respect of all other heads, this Court does not find any infirmity.

9. In the light of the above observations, this Court is of the considered view that the award passed by the Tribunal has to be enhanced in favour of the Appellant in the following manner:-

Heads	Amount Awarded by the Tribunal	Modified Amount
Loss of earning	Rs.20,000/-	Rs.40,000/-
Transport Expenses	Rs. 4,000/-	Rs. 4,000/-
Extra Nourishment	Rs.10,000/-	Rs.10,000/-
Damaged to dress and articles	Rs.1,000/-	Rs.1,000/-
Medical Expenses	Rs.33,350/-	Rs.33,350/-
Pain & Suffering to the loss of income to the family member in attending to the petitioner	Rs.20,000/-	Rs.20,000/-
Future Additional Transport expenses	Rs.10,000/-	Rs.10,000/-
Compensation for pain and suffering	Rs.10,000/-	Rs.10,000/-
Permanent Disability	Rs.20,000/-	Rs.20,000/-
Total	Rs.1,28,350/-	Rs.1,48,350/-

10. In the light of the above observations recorded by this Court, the award passed by the tribunal is modified by enhancing the award amount to Rs.1,48,350/- instead of Rs.1,28,000/- and the second respondent/Insurance Company is directed to deposit the modified Award amount of Rs.1,48,350/- together with interest at the rate of 7.5% per annum, after deducting the amount that has already been deposited by them to the credit of MCOP.No.1239 of 2006 on the file of the II Judge, Motor

Accidents Claims Tribunal, (Court of Small Causes), Chennai, within a period of four weeks from the date of receipt of a copy of the order. On such deposit being made, the Appellant is permitted to withdraw the amount lying to the credit of MCOP.No.1239 of 2006 on the file of the II Judge, Motor Accidents Claims Tribunal, (Court of Small Causes), Chennai, along with accrued interest by filing an appropriate application.

11. Accordingly, the Civil Miscellaneous Appeal is partly allowed without costs.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

kyl/nl

To

1. The Motor Accidents Claims Tribunal,
II Judge (Court of Small Causes), Chennai.

2.The Record Clerk, VR Section,
High Court, Madras.

+1cc to Mr.M.Swamikannu, Advocate SR.No.60756

+1cc to Mrs.R.Sreevidhya, Advocate SR.No.61376

C.M.A.No.1222 of 2010

GMR (CO)

GMV (31/10/2018)

WEB COPY