

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2501 of 2018

Saleemullah

.. Appellant/Petitioner

Vs.

1. R.Subburaj

2. United India Insurance Company Limited,
No.135, Silingi Building
No.134, Greams road
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 11.06.2018 made in M.C.O.P.No.2018 of 2016 on the file of Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.

For Appellant : Mr.Ravikumar S.

R1 : Notice sent

For R2 : Ms.R.Vijaya Kamala

J U D G M E N T
सत्यमेव जयते

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 11.06.2018 made in M.C.O.P.No.2018 of 2016 on the file of Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.2018 of 2016 on the file of Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 21.02.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the rider of the motor cycle bearing Registration No. TN-60-D-0092 belonging to the first respondent, insured with the second respondent and directed the second respondent/Insurance Company to pay a sum of Rs.3,41,800/- as compensation to the appellant/claimant at the first instance and recover the same from the first respondent.

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

5.The learned counsel appearing for the appellant contended that the Tribunal has fixed the disability of the appellant at 20% instead of 30% as certified by the Doctor and awarded a meagre sum of Rs.60,000/- towards disability. The Tribunal has erred in not properly considering the evidence of P.W.1 and P.W.2, who deposed that the appellant is not able to do his work as he was doing earlier and hence, the Tribunal ought to have awarded a sum of Rs.90,000/- instead of Rs.60,000/- towards disability. The Tribunal ought to have awarded some amount towards loss of future earning to the appellant by adopting multiplier method as the injuries sustained by the appellant may affect his future development. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per Contra, the learned counsel appearing for the second respondent/Insurance Company contended that P.W.2/Doctor is not a Doctor who treated the appellant and hence, the appellant is not entitled to any enhancement under the head of disability. The Tribunal has considered all the materials on record and granted just compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent and perused all the materials available on record.

8.From the materials available on record, it is seen that P.W.2/Doctor in his evidence deposed that the appellant has suffered partial permanent disability and he certified the disability at 30%. The Tribunal has held that P.W.2/Doctor is not a Doctor, who treated the appellant at the time of accident and reduced the disability to 20% and awarded a sum of Rs.60,000/- (Rs.3,000 X 20%) under this head by awarding Rs.3,000/- per percentage of disability, which is not proper. As per the evidence of P.W.2/Doctor, the appellant is not able to do his work due to the injuries sustained by him in the accident

as he was doing earlier. Therefore, this Court fixes the disability at 30% as certified by P.W.2/Doctor and award a sum of Rs.90,000/- (Rs.3,000/- X 30) towards disability by awarding a sum of Rs.3,000/- per percentage of disability. The amounts awarded by the Tribunal under all the other heads are just and reasonable and the same 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.	Disability (30%)	60,000	90,000	enhanced
2.	Pain and suffering	30,000	30,000	Confirmed
3.	Hospital and Medical expenses	1,19,973	1,19,973	Confirmed
4.	Extra nourishment	15,000	15,000	confirmed
5.	Attendant charges	1,750	1,750	Confirmed
6.	Transportation	5,000	5,000	confirmed
7.	Future medical expenses	50,000	50,000	Confirmed
8.	Loss of earning	40,000	40,000	Confirmed
9.	Loss of future prospects	20,000	20,000	Confirmed
	Total	3,41,723 (rounded off to Rs.3,41,800)	3,71,723 (rounded off to Rs.3,71,800)	Enhanced by Rs.30,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,41,800/- is hereby enhanced to Rs.3,71,800/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. The second respondent/Insurance Company is directed to deposit the enhanced

award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
Special Subordinate Judge - I
Small Causes Court, Chennai.
2. The Section Officer,
VR Section, High Court,
Madras-104 (2 Copies)

+1cc to Mr.Ravikumar.S, Advocate, S.R.No.88246

C.M.A.No.2501 of 2018

SR(CO)
CS/03/05/2019

सत्यमेव जयते

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