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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1474 of 2006

Rajathi

... Appellant/Petitioner

Vs

1.M/s.Raja Enterprises,
No.17, Officers Colony,
Ayanavaram, Chennai-23.

2.The New India Assurance Co.Ltd.,
Second Line Beach,
40, Moore Street,
Chennai-1.

... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 22.02.2002 made in MACTOP No.1421 of 2000 on the file of the Motor Accidents Claims Tribunal (VI Judge, Small Causes Court), Chennai.

For Appellant : Mr.S.Rathinamani

For Respondents : Mr.R.Neethiperumal for R2

JUDGMENT

The case in brief, is as follows:

On 08.12.1999, at about 18.00 hours, the appellant / claimant was walking in the left side of G.S.T.Road, Junction of Duraiswamy Reddy Street, Chennai. At that time, the motorcycle bearing Reg.No.TN-02-B-7159, belonging to the first respondent herein and insured with the second respondent Insurance Company, driven by its driver in a rash and negligent manner, came from behind in a rash and negligent manner and hit the appellant. Due to the said impact, the appellant sustained grievous injuries. The appellant filed a claim petition before the Tribunal claiming a sum of Rs.1,25,000/- as compensation. Considering the materials and evidence available on record, the Tribunal awarded a sum of Rs.15,500/- with interest at the rate of 9% per annum from the date of petition, as total compensation.



2. Challenging the same, the appellant/claimant has filed the present Civil Miscellaneous Appeal for enhancement of compensation.

3. The learned counsel for the appellant /claimant has submitted that considering the injuries suffered by the claimant, the compensation awarded by the Tribunal is very low and hence the same requires enhancement.

4. The learned counsel for the second respondent Insurance Company has submitted that the Tribunal has correctly considered the materials and evidence available on record and correctly awarded the compensation, which is just, fair and reasonable and hence the judgment of the Tribunal does not require any interference in the hands of this Court.

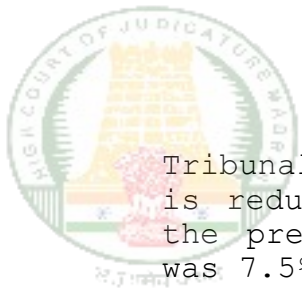
5. Heard the learned counsel for the appellant / claimant and the learned counsel for the second respondent Insurance Company and perused the materials available on record carefully and meticulously.

6. The Tribunal has awarded a sum of Rs.6,500/- towards medical expenses, Rs.500/- each towards transport expenses and extra nourishment, Rs.1,000/- towards loss of earning during the treatment period and Rs.7,000/- towards pain and suffering. Considering Ex.P4-Wound Certificate and Ex.P1-Discharge Summary, this Court is of the considered opinion that it would be appropriate to enhance the amount awarded by the Tribunal towards pain and suffering from Rs.7,000/- to Rs.17,000/- and to award a sum of Rs.10,000/- towards disability sustained by the claimant, as per Ex.P4-Disability Certificate issued by P.W.2-Doctor. The details of the modified compensation are as follows:

HEAD	AMOUNT (Rs.)
Medical expenses	6,500/-
Transport expenses	500/-
Extra nourishment	500/-
Loss of earning during the treatment period	1,000/-
Pain and suffering	17,000/-
Disability	10,000/-

TOTAL...	35,500/- =====

Thus, the appellant / claimant is entitled to the modified compensation of Rs.35,500/-. The interest rate fixed by the



Tribunal at the rate of 9% per annum from the date of petition is reduced to 7.5% per annum from the date of petition, since the prevailing rate of interest at the relevant point of time was 7.5%.

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7. It is made clear that only for the compensation of Rs.15,500/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.20,000/-, the interest rate of 7.5% per annum, shall be calculated from the date of filing of this appeal.

8. The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

9. The second respondent Insurance Company is directed to deposit the modified compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant / claimant shall withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

KM

To

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

Copy To : The Section Officer,
VR Section, Madras High Court.

+2cc to Mr.N.Viswanatha Rao, Advocate SR.No.71396

+1cc to Mr.R.Neethiperumal, Advocate SR.No.71821

C.M.A.No.1474 of 2006

PPA (CO)
GMY (10/07/2020)