

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2179 of 2007

V.Kesavan

.. Appellant

Vs.

1.J.Mani

2.M/s.United India Insurance Co. Ltd.

No.38, Anna Salai, Chennai - 600 002.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.12.2006 made in M.C.O.P.No.857 of 2002 on the file of the Motor Accident Claims Tribunal, VI Judge, Small Causes Court, Chennai.

For Appellant : Mr.T.G.Balachandran

For R1 : Mr.K.Balajee

For R2 : Mr.S.Arun Kumar

J U D G M E N T

Being dissatisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has filed this appeal seeking enhancement of the same.

2.According to the appellant/claimant, on 19.09.2001, at about 14.00 hours, while he was riding his Cycle at EVR Salai, the Water Tanker Tractor Trailor bearing Registration No.TDH 1573, which was driven by its driver in a rash and negligent manner, hit the Cycle. As a result of the same, the appellant sustained grievous injuries. Stating so, he filed a claim petition claiming a compensation of Rs.1,25,000/-. On consideration of the materials and evidence, the Tribunal has awarded a total compensation of Rs.22,500/- with interest at

7.5%p.a. from the date of petition.

3.The learned counsel for the appellant/claimant submitted that though the doctor assessed the disability of the appellant/claimant at 35%, the Tribunal has awarded only a paltry sum of Rs.12,000/- for continuing permanent disability and loss of earning power. He also submitted that the compensation awarded under other heads is very meagre and hence, the same has to be enhanced substantially.

4.Per Contra, the learned counsel for the respondents submitted that the Tribunal, based on the oral and documentary evidence placed before it, has assessed the quantum of compensation at Rs.22,500/- which is nothing but fair and hence, the same warrants no interference at the hands of this Court.

5.Heard both sides and perused the records.

6.A perusal of the award of the Tribunal would go to show that the appellant sustained fracture in left clavicle bone, for which, he has taken treatment at more than one hospitals and the same has been established by Ex.P4-prescription and bill, Ex.P6 series-Puthur chits and Ex.P9- X ray. P.W.2/Dr.J.R.R.Thiagarajan, who treated the appellant, stated that the appellant's bone was not united and his shoulder movement was restricted; and he finds it difficult in using left hand. The doctor assessed the disability at 35%. However, the Tribunal has awarded only Rs.12,000/- towards permanent disability and loss of earning power, which, in the opinion of this Court, is very meagre, considering the nature of the injuries sustained by the appellant in the accident and hence, the same is hereby enhanced to Rs.35,000/- by awarding Rs.1,000/- per percentage of disability (Rs.1,000/- x 35%).

7.Further, the Tribunal has awarded Rs.1,000/- towards transportation, which appears to be on the lower side. Taking note of the fact that the appellant has taken treatment at various hospitals for sometime, this Court is inclined to enhance the same to Rs.3,000/- and is accordingly awarded. Similarly, considering the gravity of the injuries suffered by the appellant, the compensation awarded by the Tribunal under the head "pain and suffering" is hereby enhanced from Rs.8,000/- to Rs.15,000/-, besides enhancing the extra nourishment charges from Rs.500/- to Rs.2,000/-.

8.That apart, the Tribunal has awarded Rs.500/- towards medical expenses and Rs.500/- towards damage to clothes, which seem to the inadequate, having regard to the facts and circumstances of the case and the same are hereby enhanced to Rs.4,000/- and Rs.1,000/- respectively. However, there is no

change with regard to the rate of interest awarded by the Tribunal.

9. In view of the above, the compensation awarded by the Tribunal is enhanced from Rs.22,500/- to Rs.60,000/-, the break-up details of which, reads as follows:

S. No.	Description	Amount awarded by this Court (Rs.)
1.	Medical Expenses	4,000/-
2.	Transportation	3,000/-
3.	Extra Nourishment	2,000/-
4.	Damages of Cloths	1,000/-
5.	Permanent disability and loss of earning power	35,000/-
6.	Pain & suffering	15,000/-
	Total	Rs.60,000/-

As requested by the learned counsel for the second respondent Insurance company, the enhanced sum of Rs.37,500/- shall carry interest at 7.5% p.a. only from the date of filing of this appeal.

10. In the result, this appeal is partly allowed. No costs. The 2nd respondent-Insurance Company, is directed to deposit the entire compensation amount along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the same to the Savings Bank Account of the appellant/claimant through RTGS within a period of one week thereafter. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gbi / srk

To

1. The VI Judge,
Motor Accident Claims Tribunal,
Small Causes Court, Chennai.

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

+1 cc to Mr.S.Arunkumar Advocate sr62452

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