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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.83 of 2007

S.Palanichamy

... Appellant/Claimant

Vs

1.M/s.Earms Garments
rep.by its Proprietor
Sridharan

2.M/s.United India Insurance Co.Ltd.,
Salem. ... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 17.08.2000 made in MCOP No.449 of 1995 on the file of the Motor Accidents Claims Tribunal, II Additional District Judge, Salem.

For Appellant : Mr.R.Jaikumar

JUDGMENT

This appeal is preferred by the appellant/claimant against the award of a sum of Rs.1,75,000/- towards compensation due to the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 04.09.1994 at about 07.15 p.m., the appellant/ claimant was worshipping in the Muniappan Temple near Magudanchavadi Petrol Bunk in Salem. At that time, a motorcycle bearing Reg.No.TN-33-A-2765 came from Sankari-Salem Main Road at high speed in a rash and negligent manner and dashed against the appellant. Due to the said impact, the appellant sustained injuries all over the body. The appellant filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,75,000/- with interest at the rate of 12% per annum from the date of petition.

3.Challenging the same, the appellant -claimant has filed



the present Civil Miscellaneous Appeal for enhancement of compensation.

4. The learned counsel for the appellant / claimant has submitted that subsequent to the award passed by the Tribunal, the disability of the claimant was increased to 60% from 40% after the claimant's right leg below knee was amputated, which paved the way for incurring further expenses by means of Hospital Charges, Medical Bills etc. He also submitted that the Tribunal has not taken into consideration the future medical expenses that would be incurred by the claimant because of the injuries suffered by him in the accident.

5. Heard the learned counsel for the appellant / claimant and perused the materials available on record.

6. It is seen that there was deficit batta and that the respondents 1 and 2 are not ready in notice. But it seems that no proper steps have been taken on the side of the appellant / claimant to rectify the defects.

7. Coming to the merits of the case in question, the appellant / claimant has claimed a sum of Rs.50,000/- towards partial loss of earning, Rs.500/- towards transport to hospital, Rs.50,000/- towards extra nourishment, Rs.1,000/- towards damages to clothing and articles, Rs.5,000/- towards loss of consortium and Rs.50,000/- each towards pain and suffering, continuance of permanent disability and loss of earning power, thus totalling to Rs.2,56,500/-.

8. Against the claim of the claimant, the Tribunal has awarded a sum of Rs.85,000/- towards medical expenses relying on Ex.P9-Medical Bills, which is an actual expenditure. Based on Ex.P3-Wound Certificate and Ex.P11-Disability Certificate, the Tribunal has awarded a sum of Rs.20,000/- towards injuries, Rs.20,000/- towards pain and suffering and Rs.45,000/- towards permanent disability. The Tribunal has also awarded a sum of Rs.5,000/- towards transport expenses, thus awarding a total compensation of Rs.1,75,000/-.

9. But it is seen that the disability of the claimant was increased to 60% from 40% after the claimant's right leg below knee was amputated, which paved the way for incurring further expenses by means of Hospital Charges, Medical Bills etc. Had any amount been awarded by the Tribunal towards future medical expenses, there cannot be any ground to claim compensation subsequent to the award. In these circumstances, this Court is of the considered opinion that in addition to the amounts awarded by the Tribunal, it would be appropriate to award a sum



of Rs.70,000/- towards future medical expenses and Rs.11,500/- towards extra nourishment.

10.The details of the modified compensation are as follows:

HEAD	AMOUNT (Rs.)
Medical expenses	85,000/-
Injuries	20,000/-
Pain and suffering	20,000/-
Permanent disability	45,000/-
Transport expenses	5,000/-
Future medical expenses	70,000/-
Extra nourishment	11,500/-

TOTAL...	2,56,500/- =====

Thus, the appellant / claimant is entitled to the modified compensation of Rs.2,56,500/- with interest at the rate of 12% p.a. from the date of petition.

11.At this juncture, the learned counsel for the appellant / claimant has submitted that the appellant has died and steps are being taken to bring the legal heirs of the appellant on record.

12.The second respondent Insurance Company is directed to deposit the modified compensation of Rs.2,56,500/- with interest at 12% p.a. from the date of petition, 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 legal heirs of the appellant shall make proper application before the Tribunal for withdrawal of the deposited amount.

13.The Civil Miscellaneous Appeal is allowed, as indicated above. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



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To

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1.The Motor Accidents Claims Tribunal
II Additional District Judge, Salem.

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

+1cc to Mr.R.Jayapraksh, Advocate SR.52096

C.M.A.No.83 of 2007

LN(CO)
CB(03/01/2020)