

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1262 of 2013

M.Anandkumar

.. Appellant/Petitioner

Vs.

1.M.Murugan

2.G.Raju

3.National Insurance Company Ltd.,
No.53, Raja Muthiya Road,
Periyamedu,
Chennai.

(1st Respondent set exparte before the Tribunal)

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.02.2012 made in M.C.O.P.No.242 of 2010 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Erode.

For Appellant : Mr.M.Guruprasad

For R3 : Mr.K.Padmanabhan

For R1 & R2 : Notice served - No appearance

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant seeking enhancement of compensation granted by the Tribunal in the award dated 24.02.2012 made in M.C.O.P.No.242 of 2010 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Erode.

2.The appellant is the claimant in M.C.O.P.No.242 of 2010 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Erode. He filed the said claim petition claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 01.10.2006.

3.The case of the appellant is that on 01.10.2006, the petitioner was travelling as a pillion rider in a Motorcycle bearing Registration No.TN-46-P-1294, which was driven by one Anand, proceeding from Erode to Ooty for taking photographs of a Marriage function at about 08.15 PM. When the motorcycle was proceeding near Erode to Pallagoundenpalayam NH 47 Road, a lorry which was going in front of the motorcycle at high speed and rash and negligent manner, driven by the 1st respondent herein, suddenly applied the brake, without observing traffic rules. In the result, the motorcycle hit behind the lorry and the appellant and the said Anand were thrown off and sustained multiple injuries. The appellant sustained injuries over his left knee, head, left arm and all over the body. Immediately, the injured were admitted in K.M.C.H hospital, Erode as in-patients.

4.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the lorry belonging to the second respondent and directed the third respondent/Insurance Company to pay a sum of Rs.79,000/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5.Heard Mr.M.Guruprasad, learned counsel for the appellant and Mr.K.Padmanabhan, learned counsel appearing for the third respondent.

6.A perusal of the records show that the claimant has sustained fracture of right clavical bone and injuries all over the body. PW2 and P.W.3 have assessed the partial permanent disability as 16% and the Tribunal has accepted the same and awarded a sum of Rs.32,000/- (Rs.2000/- per percentage of disability). Considering the nature of injuries and the year of the accident, the Tribunal had rightly awarded a sum of Rs.32,000/- towards disability and the same is hereby confirmed. It is seen from the claim petition that the claimant was working as a photographer and was earning a sum of Rs.20,000/- per month as salary, But, without any appropriate materials to show his income, the Tribunal has awarded only a sum of Rs.3,000/- under loss of earning. Hence, this Court is also not inclined to interfere with the same. The Tribunal has awarded a sum of Rs.3,000/- for pain and sufferings and the same is hereby enhanced to Rs.25,000/-. The Tribunal has awarded a sum of Rs.1,000/- towards Transportation and the same is also hereby enhanced to Rs.5,000/-. The Tribunal has granted a sum of Rs.38,000/- under the head "medicines". But considering the medical bills and receipts produced by the appellant, this Court

enhances the same to a sum of Rs.76,000/-. The Tribunal did not award any amount towards attender charges, nutrition and the marriage prospectus. This Court is grants a sum of Rs.5,000/- towards attender charges and nutrition and a sum of Rs.15,000/- is awarded towards marriage prospectus. The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this Court
1.	Disability	Rs.32,000/-
2.	Pain and sufferings	Rs.25,000/-
3.	Transportation	Rs.5,000/-
4.	Medicine	Rs.76,000/-
5.	Attender Charges	Rs.5,000/-
6.	Additional Nutrition	Rs.5,000/-
7.	Marriage Prospectus	Rs.15,000/-
8.	Loss of Income	Rs.3,000/-
	Total	Rs.1,66,000/-

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7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.79,000/- is hereby enhanced to Rs.1,66,000/- together along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation.

8. The third respondent 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/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount, already withdrawn, if any. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sbn
To

1. The Principal Subordinate Judge
Motor Accidents Claims Tribunal,
Erode.

2. The Section Officer,
V.R Section,
High Court, Madras.

+1 CC to Mr.M.Guruprasad, Advocate sr 102420.

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C.M.A.No.1262 of 2013

MP (CO)
SP (21/12/2020)

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