

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3353 of 2010

Fayaz

.. Appellant/ Petitioner

Vs.

1.Babu

2.Divisional Manager,

United India Insurance Company Limited,

Divisional Office,

M.M.Reddy Complex,

Old Bangalore Road,

Hosur.

... Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 29.06.2010 made in M.C.O.P.No.89 of 2008 on the file of Motor Accident Claims Tribunal, Subordinate Judge, Hosur.

For Appellant : Mr.M.Sriram

For R1 : Ex-parte

For R2 : Mrs.R.Sreevidhya

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 29.06.2010 made in M.C.O.P.No.89 of 2008 on the file of Motor Accident Claims Tribunal, Subordinate Judge, Hosur.

2.The appellant is the claimant in M.C.O.P.No.89 of 2008 on the file of Motor Accident Claims Tribunal, Subordinate Judge, Hosur. He filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 10.01.2007.

3.On 10.01.2007, the claimant/appellant and other loading and unloading coolie workers proceeded in the Tempo bearing Regn.No.CRA 424 to load the woods at Belegondapalli. On that day

at about 08.00 hours, the said Tempo was proceeding in Hosur to Thally road near Dasiripalli diversion road i.e, 8 K.M South West of Hosur Traffic Investigation Wing Police Station. At that time, the driver of the said tempo drove the same in a rash and negligent manner without observing any rules of the road in a high speed, he lost his control and in the same speed, he applied sudden break. Due to the said impact, the driver of the tempo lost his control and capsized on road side. Therefore, the appellant and the workers, who travelled in the said Tempo sustained injuries.

4.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the Tempo bearing Regn.No.CRA 424 belonging to the first respondent and directed the second respondent to pay a sum of Rs.1,28,000/- 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.Sriram, learned counsel for the appellant and Mrs.R.Sreevidhya, learned counsel appearing for the second respondent and perused the materials available on record.

6.A perusal of the records show that the claimant has sustained fracture of right clavical bone and injuries all over the body. P.W.6/doctor has assessed the partial permanent disability as 45% and the Tribunal has accepted the same and awarded a sum of Rs.2,000/- per percentage of disability. Considering the nature of injuries and the year of the accident, the Tribunal had rightly awarded a sum of Rs.90,000/- towards "disability" and the same is hereby confirmed. It is seen that the claimant had suffered a lot, after he met with the accident. Hence, the Tribunal has awarded a sum of Rs.10,000/- towards "pain and sufferings" and the same is hereby enhanced to Rs.25,000/-. The Court below has awarded a sum of Rs.5,000/- towards "Transportation & Extra Nourishment", which is very meager. Hence, this Court is inclined to award a sum of Rs.5,000/- each towards "Transportation" and "Extra Nourishment". The Tribunal has awarded a sum of Rs.23,000/- towards "Medical Expenses", which is just and reasonable and the same is hereby confirmed. The Tribunal did not award any amounts towards "loss of amenities" and "loss of future "medical expenses". This Court is inclined to award a sum of Rs.5,000/- and Rs.10,000/- for the same. The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this Court
1.	Disability	Rs.90,000/-
2.	Pain and sufferings	Rs.25,000/-
3.	Transportation	Rs.5,000/-
4.	Extra Nourishment	Rs.5,000/-
5.	Loss of amenities	Rs.5,000/-
6.	Medical expenses	Rs.23,000/-
7.	Loss of Future medical expenses	Rs.10,000/-
Total		Rs.1,63,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,28,000/- is hereby enhanced to Rs.1,63,000/- 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. The second 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.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. Subordinate Court,
Motor Accidents Claims Tribunal,
Hosur.

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

+1cc to Mr.Mukund R. Pandian, Advocate, S.R.No.102473

C.M.A.No.3353 of 2010

RLD (CO)
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