



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1284 of 2015

M.Ponnurangam

... Appellant/Petitioner

Vs.

1.V.Bhadrinath

2.Bajaj Alliance General Insurance Co. Ltd.,
Motor Third Party Claims Office,
25/26, College Road, Nungambakkam,
Chennai 6.

... Respondents /Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 18.11.2009, made in M.C.O.P.No.887 of 2006, on the file of the III Judge, Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.T.G.Balachandran

For R1 : No appearance

For R2 : Mr.D.Bhaskaran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-claimant, seeking enhancement of the compensation granted by the award dated 18.11.2009, made in M.C.O.P.No.887 of 2006, on the file of the III Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellant-claimant filed M.C.O.P.No.887 of 2006, on the file of the III Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 24.12.2005.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to



rash and negligent riding by the 1st respondent, rider-cum-owner of the motorcycle and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,38,600/- as compensation to the appellants.

WEB COPY

4. Not being satisfied with the amounts granted by the Tribunal in the award dated 18.11.2009, made in M.C.O.P.No.887 of 2006, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that the appellant sustained cerebral concussion, fracture of mandible and fracture of pelvis. P.W.2-Doctor has assessed 55% ortho disability and 30% neuro disability, totalling 85%. The Tribunal reduced the percentage of disability to 75% stating that the disability assessed by the Doctor is on higher side. The appellant was aged 58 years and was working as a senior mechanic at S.E.R.C, Tharamani at the time of accident and was earning a sum of Rs.12,000/- per month. Due to the injuries sustained in the accident, he could not do the work as he was doing earlier. The Tribunal granted a meagre sum towards loss of income, transportation charges, extra nourishment and pain and suffering. The appellant has taken treatment as in-patient in Malar Hospital and Sri Ramachandra Medical Centre. The Tribunal failed to grant any amount towards attender charges and loss of amenities. The total compensation granted by the Tribunal are also meagre and prayed for enhancement of the compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the appellant has not proved the loss of income by any material evidence. The Tribunal has accepted the two disability certificates issued by P.W.2 and P.W.3 Doctors and granted compensation for 75% disability. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the 2nd respondent and perused the materials available on record. Though notice has been served on the 1st respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel.

8. From the materials on record, it is seen that the appellant has contended that he was working as a Senior Mechanic in S.E.R.C., Tharamani and was earning a sum of Rs.12,000/- per month. Due to the injuries, the appellant suffered three fractures and could not do the work as he was doing earlier. In the absence of any evidence to prove the loss of income, the sum of Rs.21,000/- granted by the Tribunal towards loss of income is not meagre. The appellant has taken treatment in Malar Hospital



from 24.12.2005 to 26.12.2005 and at Sri Ramachandra Hospital from 26.12.2005 to 04.01.2006. The Tribunal failed to grant any amount towards attendant charges and loss of amenities. Hence, a sum of Rs.20,000/- each is granted towards the said heads. The amounts granted by the Tribunal towards extra nourishment, transportation and pain and suffering are meagre. The appellant is entitled to a sum of Rs.10,000/-, Rs.10,000/- and Rs.25,000/- towards the same respectively. P.W.2 and P.W.3 Doctors have assessed 85% disability suffered by the appellant. The Tribunal considering the disability certificates produced by the appellant and the evidences of P.W.2 and P.W.3 Doctors, reduced the same to 75% and granted compensation towards disability, which is meagre. The same is enhanced to Rs.1,50,000/- at the rate of Rs.2,000/- per percentage for 75% disability. The amounts granted by the Tribunal towards other heads are just and reasonable and the same are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of earning	21,000/-	21,000/-	confirmed
2.	Transportation	5,000/-	10,000/-	enhanced
3.	Extra nourishment	5,000/-	10,000/-	enhanced
4.	Damages to clothes	500/-	500/-	confirmed
5.	Medical expenses	17,100/-	17,100/-	confirmed
6.	Pain and suffering	15,000/-	25,000/-	enhanced
7.	Partial and permanent disability	75,000/-	1,50,000/-	enhanced
8.	Loss of amenities	-	20,000/-	granted
9.	Attendant charges	-	20,000/-	granted
	Total	1,38,600/-	2,73,600/-	Enhanced by Rs.1,35,000/-



9. In the result, the appeal is partly allowed and award granted by the Tribunal at Rs.1,38,600/- is enhanced to Rs.2,73,600/- along with interest and costs. The 2nd respondent is directed to deposit the enhanced award amount along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.887 of 2006. On such deposit, the appellant/claimant is permitted to withdraw the award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The III Judge,
Small Causes Court,
(Motor Accident Claims Tribunal),
Chennai.

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

+1cc to M/s.T.G.Balachandran, Advocate Sr.30303
+1cc to Mr.D.Bhaskaran, Advocate Sr.30708

C.M.A.No.1284 of 2015

sj[col]
srg 30/09/2019