

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.148 of 2015

M.Nagaraj

.. Appellant/Petitioner

Vs.

1.V.Shalom Travels,
No.64C, 5th Street, Thiruvalluvar Nagar,
Alandur, Chennai 16.

2.Universal Sampo General Insurance Co. Ltd.,
Regional Office South,
Capital Towers, 5th Floor,
Nos.554 & 555 Anna salai,
Teynampet, Chennai. .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 01.08.2013, made in M.C.O.P.No.496 of 2011, on the file of the IV Additional District Court, (Motor Accident Claims Tribunal), Ponneri.

For Appellant : Mr.R.Sreekanth

For R1 : No appearance

For R2 : M/s.R.Vijaya Kamala

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 01.08.2013, made in M.C.O.P.No.496 of 2011, on the file of the IV Additional District Court, (Motor Accident Claims Tribunal), Ponneri.

2.By consent of the learned counsel appearing for the appellant as well as the 2nd respondent, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant-claimant filed M.C.O.P.No.496 of 2011, on the file of the IV Additional District Court, (Motor Accident Claims Tribunal), Ponneri, claiming a sum of Rs.8,00,000/- as compensation for the injuries sustained by him in the accident that took place on 25.08.2011.

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 car belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.4,30,000/- as compensation to the appellant.

5.Not being satisfied with the amounts granted by the Tribunal in the award dated 01.08.2013, made in M.C.O.P.No.496 of 2011, the appellant has come out with the present appeal.

6.The learned counsel appearing for the appellant contended that the appellant was aged 29 years at the time of accident. He sustained lacerated injuries on the left side of the scalp, swelling on the right wrist and has taken treatment as in-patient in hospital from 25.08.2011 to 12.09.2011. P.W.2-Doctor has assessed 80% disability. The Tribunal has granted a meagre sum towards permanent disability. The appellant has spent a sum of Rs.2,46,987/- towards medical expenses and produced Exs.P2 to P4 to prove the same. The Tribunal erroneously rejected the same and granted only Rs.2,00,000/- towards medical expenses. The Tribunal failed to grant any amount towards attender charges, loss of amenities and damages to clothes. The amounts granted by the Tribunal towards extra nourishment and transportation are meagre. In any event, the total compensation granted by the Tribunal is meagre and prayed for enhancement of the same.

7.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering all the materials on record in proper perspective granted compensation towards disability for 80% disability suffered by the appellant. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

8.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 their name is printed in the cause list, there is no representation for them either in person or through counsel.

9.From the materials on record, it is seen that the appellant has contended that he was working as a Research

Associate Manager and earning a sum of Rs.19,953/- per month. He has produced pay slip to prove the same. The Tribunal without fixing the monthly income of the appellant, granted a sum of Rs.10,000/- towards loss of income. The appellant has not examined the author of the pay slip to prove his income. The accident is of the year 2011. The monthly income of the appellant is fixed at Rs.9,000/-. Due to the injuries and the treatment taken, the appellant would not have attended the work atleast for 6 months. Hence, he is entitled to a sum of Rs.54,000/- towards loss of income for 6 months. P.W.2-Doctor has assessed 80% disability and granted a meagre sum towards permanent disability. The appellant is entitled to Rs.2,40,000/- towards disability at the rate of Rs.3,000/- for 80% disability. The appellant has taken treatment as in-patient in hospital from 25.08.2011 to 12.09.2011 and has underwent surgery on 25.08.2011. Subsequently, he was taking treatment as out-patient. The Tribunal failed to grant any amount towards attender charges, loss of amenities and damages to cloth. Hence, a sum of Rs.20,000/-, Rs.20,000/- and Rs.2,000/- are granted towards the said heads respectively. The amounts granted by the Tribunal towards extra nourishment and transportation are meagre. The same are enhanced to Rs.20,000/- and Rs.10,000/- respectively. The amounts granted by the Tribunal under 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	10,000/-	54,000/-	enhanced
2.	Pain and suffering	50,000/-	50,000/-	confirmed
3.	Transportation	5,000/-	10,000/-	enhanced
4.	Medical expenses	2,00,000/-	2,00,000/-	confirmed
5.	Permanent disability	1,60,000/-	2,40,000/-	enhanced
6.	Loss of clothes	-	2,000/-	granted
7.	Loss of amenities	-	20,000/-	granted
8.	Attender charges	-	20,000/-	granted

9.	Extra nourishment	5,000/-	20,000/-	enhanced
	Total	4,30,000/-	6,16,000/-	Enhanced by Rs.1,86,000/-

10. In the result, the appeal is partly allowed and award granted by the Tribunal at Rs.4,30,000/- is enhanced to Rs.6,16,000/- 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.496 of 2011. 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, by filing necessary application before the Tribunal. No costs.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

gsa

To

1. The IV Additional District Judge,
(Motor Accident Claims Tribunal),
Ponneri.

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

+1 CC to M/s. R. Sreekanth, Advocate sr 31454.

+1 CC to M/s. R. Vijaya Kamala, Advocate sr 31412.

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PPA (CO)
SP(16/07/2019)