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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2132 of 2015

J.George

.. Appellant/Petitioner

Vs.

1.Muhammed Ali

(R1 remained exparte before Tribunal,
hence his presence may be dispensed with)

2.The Oriental Insurance Company Limited,
Old No.115, New No.216, Prakasam Salai,
Broadway,
Chennai - 600 108.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.01.2015 made in M.C.O.P.No.1209 of 2013 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Ms.A.Subadra for
Ms.M.Malar

For R2 : Mr.M.Krishnamoorthy

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 06.01.2015 made in M.C.O.P.No.1209 of 2013 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

2.The appellant is the claimant in M.C.O.P.No.1209 of 2013 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai. He filed the above said claim petition, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 21.01.2013.



3.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 first respondent and directed the second respondent-Insurance Company to pay a sum of Rs.3,46,844/- as compensation to the appellant.

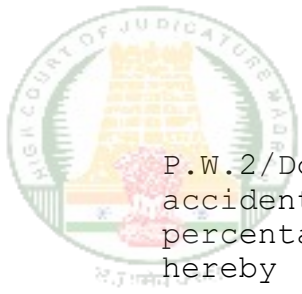
4.Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellant contended that the appellant was working as an electrical site engineer and was earning a sum of Rs.15,000/- per month. Due to the injuries and disability, he could not do the work as he was doing earlier. The appellant sustained injuries like segmental fracture in right femur and compound fracture at both right and left leg and multiple injuries all over the body. The Tribunal fixed the monthly income of the appellant at Rs.6,000/-, which is meagre. The appellant has taken treatment in the hospital as in-patient from 22.01.2013 to 30.01.2013 and on 17.05.2013 and 18.05.2013 and the Tribunal has awarded only a meagre sum of Rs.6,000/- towards attendant charges. P.W.2/Doctor assessed the percentage of disability suffered by the appellant at 80% and the Tribunal erroneously reduced the same to 75% on the ground that assessment of P.W.2/Doctor is on higher side. The amounts granted by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the second respondent-Insurance Company contended that the Tribunal reduced the percentage of disability suffered by the appellant from 80% to 75% on the ground that the assessment of P.W.2/Doctor is on higher side and awarded a sum of Rs.1,50,000/- towards disability at the rate of Rs.2,000/- per percentage, which is not meagre. A sum of Rs.6,000/- fixed by the Tribunal as monthly income is not meagre. The total compensation awarded by the Tribunal is not meagre and prayed for dismissal of the appeal.

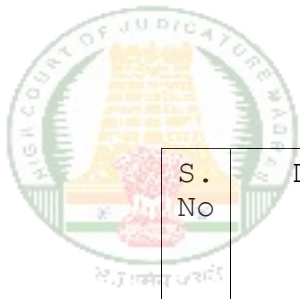
7.I have heard the learned counsel appearing for the appellant as well as the second respondent and perused entire materials on record.

8.From the materials available on record, it is seen that the appellant contended that he sustained injuries like segmental fracture in right femur and compound fracture at both right and left leg and multiple injuries all over the body and suffered 80% disability as certified by P.W.2/Doctor. The Tribunal reduced the percentage of disability suffered by the appellant from 80% to 75% on the ground that assessment of



P.W.2/Doctor is on the higher side. The same is in order. The accident occurred in the year 2013 and a sum of Rs.2,000/- per percentage awarded by the Tribunal is meagre and the same is hereby enhanced to Rs.3,000/- per percentage. Thus, the compensation awarded by the Tribunal towards disability is modified to Rs.2,25,000/- [Rs.3,000/- X 75]. The learned counsel appearing for the appellant contended that the appellant was working as an electrical site engineer and was earning a sum of Rs.15,000/- per month. To prove the same, the appellant produced Ex.P6/salary slip. The Tribunal rejected Ex.P6 on the ground that author of Ex.P6 was not examined and fixed a sum of Rs.6,000/- as monthly income of the appellant, which is meagre. A sum of Rs.10,000/- is fixed by this Court as monthly income of the appellant. Due to the injuries and disability, the appellant would not have attended his work atleast for 6 months and the compensation awarded by the Tribunal towards loss of income is modified to Rs.60,000/- [Rs.10,000/- X 6]. The appellant has taken treatment in the hospital as in-patient from 22.01.2013 to 30.01.2013 and on 17.05.2013 and 18.05.2013 and the Tribunal has awarded only a sum of Rs.6,000/- towards attendant charges, which is meagre and hence, the same is hereby enhanced to Rs.10,000/-. A sum of Rs.500/- awarded by the Tribunal towards damage to cloth is meagre and the same is hereby enhanced to Rs.2,000/-. The amount awarded by the Tribunal under other heads 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 income	30,000/-	60,000/-	Enhanced
2.	Transportation	15,000/-	15,000/-	Confirmed
3.	Extra nourishment	15,000/-	15,000/-	Confirmed
4.	Damage to cloth	500/-	2,000/-	Enhanced
5.	Medical expenses	50,344/-	50,344/-	Confirmed
6.	Attendant charges	6,000/-	10,000/-	Enhanced
7.	Loss of amenities	20,000/-	20,000/-	Confirmed
8.	Pain and suffering	60,000/-	60,000/-	Confirmed
9.	Disability	1,50,000/-	2,25,000/-	Enhanced



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
	Total	Rs.3,46,844/-	Rs.4,57,344/-	enhanced by Rs.1,10,500/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,46,844/- is hereby enhanced to Rs.4,57,344/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay the Court fee, if any on the enhanced amount of compensation. The second respondent-Insurance Company 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 to the credit of M.C.O.P.No.1209 of 2013 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

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To

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

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

+1cc to M/s.M.Malar, Advocate SR.No.35073

+1cc to Mr.M.Krishnamoorthy, Advocate SR.No.35443

C.M.A.No.2132 of 2015

RSI (CO)
GMY (09/10/2019)