



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2256 of 2015

R.Ranjith Kumar

.. Appellant/Claimant

Vs.

1.Suriyakala

2.The Divisional Manager,
United India Insurance Co. Ltd.,
Vellore.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 16.02.2004 made in M.A.C.T.O.P.No.133 of 2002 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Tiruvanamalai.

For Appellant : Mr.R.Thirugnanam

For R1 : No appearance

For R2 : Mr.S.Arunkumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 16.02.2004 made in M.C.O.P.No.133 of 2002 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Tiruvanamalai.

2.The appellant is claimant in M.C.O.P.No.133 of 2002 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Tiruvanamalai. He filed the said claim petition claiming a sum of Rs.1,00,000/- as compensation for the injuries sustained by him in the accident that took place on 18.05.2001. 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 bus belonging to the 1st respondent and



directed both the 1st respondent owner of the bus as well as 2nd respondent/Insurance Company being the insurer of the said bus to pay jointly and severally a sum of Rs.29,480/- 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.

3.The learned counsel appearing for the appellant contended that the Tribunal failed to consider the evidence of PW1/appellant who has deposed that he was an agriculturist earning a sum of Rs.100/- per day. The Tribunal erred in fixing the income of the appellant at Rs.30/- per day. PW2-Doctor assessed the disability of the appellant at 45%. The Tribunal erroneously reduced the same to 15%. The Tribunal has not awarded any amount towards pain & suffering. In any event, the compensation awarded by the Tribunal is meagre and prayed for enhancement of compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal in the absence of any material evidence, fixed Rs.30/- per day as income of the deceased, which is proper. The Tribunal after considering both oral and documentary evidence, has awarded just compensation which is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant as well as the 2nd respondent-Insurance Company and perused all the materials available on record.

6.From the materials available on record, it is seen that the appellant has contended that he was an agriculturist and was earning a sum of Rs.100/- per day. The appellant has failed to substantiate the said contention. In the absence of any material evidence, the Tribunal fixed Rs.30/- per day and held that the appellant would not have worked all 30 days and has fixed a sum of Rs.600/- per month as notional income of the appellant. The accident is of the year 2001 and the notional income fixed by the Tribunal is meagre. This Court fixes a sum of Rs.3,000/- per month as notional income of the appellant. PW2-Doctor has deposed that the appellant sustained fracture on his right leg bone and certified the disability of the appellant at 45%. The Tribunal reduced the same to 15%, holding that it is not possible for the appellant to suffer permanent disability at 45%. The percentage of disability fixed by the Tribunal is meagre. The appellant is entitled to compensation for 25% disability. The Tribunal has adopted multiplier method for awarding compensation towards disability. The amount awarded by the Tribunal towards disability is modified to Rs.1,44,000/-



(Rs.3,000/- x 12 x 16 x 25/100). The appellant has taken treatment in the hospital as in-patient from 18.05.2001 for a period of one month. The Tribunal has not awarded any amount towards attendant charges, loss of amenities, pain & suffering, extra nourishment, transportation and damages to cloth. This Court awards a sum of Rs.10,000/- Rs.15,000/-, Rs.10,000/-, Rs.5,000/-, Rs.5,000/- and Rs.500/- under those heads respectively. The amounts awarded by the Tribunal towards loss of income is just and reasonable and the same is hereby confirmed. A sum of Rs.5,000/- granted by the Tribunal towards grievous injury is set aside. Thus the compensation awarded by the Tribunal is modified as follows:

S.N o	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	17,280	1,44,000	Enhanced
2.	Loss of income	7,200	7,200	Confirmed
3.	Grievous injuries	5,000	-	Set aside
4.	Attendant charges	-	10,000	Granted
5.	Loss of amenities	-	15,000	Granted
6.	Pain & sufferings	-	10,000	Granted
7.	Extra nourishment	-	5,000	Granted
8.	Transportation	-	5,000	Granted
9.	Damages to cloth	-	500	Granted
	Total	Rs.29,480/-	Rs.1,96,700/-	Enhanced by Rs.1,67,220/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.29,480/- is hereby enhanced to Rs.1,96,700/- together with interest at the rate of 9% 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. Both the 1st respondent as well as the 2nd respondent/Insurance Company are jointly and severally 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 if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mtl

To

1. The Principal Subordinate,
Motor Accidents Claims Tribunal,
Tiruvanamalai.
2. The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.R.Thirugnanam, Advocate, S.R.No.40095
+1cc to Mr.S.Arunkumar, Advocate, S.R.No.40034

C.M.A.No.2256 of 2015

SV(CO)
CS/05/08/2019