

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1351 of 2016

M.Rajan @ M.Robi

...Appellant/Petitioner

Vs

1. Pandu

2. Reliance General Insurance Company Ltd.,
No.6, Haddows Road,
Nungambakkam,
Chennai - 6.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 13.01.2015 made in M.C.O.P.No.2429 of 2012 on the file of Motor Accidents Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.K.Varadhakamaraj

For R2 : Mr.S.Arunkumar

J U D G M E N T

This Civil Miscellaneous Appeal is filed seeking enhancement of compensation granted by the Tribunal in the award dated 13.01.2015 made in M.C.O.P.No.2429 of 2012 on the file of Motor Accidents Claims Tribunal, II Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.2429 of 2012 on the file of Motor Accidents Claims Tribunal, II Small Causes Court, Chennai. He filed the above claim petition claiming a sum of Rs.12,00,000/- as compensation for the injuries sustained by him in the accident that took place on 03.04.2012. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the tipper lorry and directed the 2nd respondent-Insurance Company being insurer of the said tipper lorry to pay a sum of Rs.8,43,000/- as compensation to the appellant. Not being satisfied with the amount awarded by

the Tribunal, the appellant/Claimant has come out with the present appeal seeking enhancement of compensation awarded by the Tribunal.

3.The learned counsel appearing for the appellant/claimant contended that the Tribunal has erred in awarding only a sum of Rs.49,000/- towards loss of earning, without considering the period of treatment. The amounts awarded by the Tribunal towards medical expenses, transportation, extra nourishment, pain and suffering, loss of amenities and attendant charges are meagre and prayed for enhancement of compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal has considered all the aspects in proper perspective and awarded excessive compensation. 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 learned counsel appearing for the 2nd respondent and perused the materials available on record.

6.From the materials available on record, it is seen that the appellant in the claim petition has stated that he was working as an Electrician and was earning a sum of Rs.12,000/- per month and due to the injuries sustained by him in the accident, he could not do the work as he was doing earlier. The Tribunal considering the evidence of P.W.2/Doctor and medical records produced by the appellant, has awarded a sum of Rs.49,000/- towards loss of income and Rs.3,78,000/- towards disability & loss of earning power by adopting multiplier method, which are proper. Considering the nature of injuries sustained by the appellant and his avocation, this Court enhances the sum of Rs.20,000/- each awarded by the Tribunal towards extra nourishment and loss of amenities to Rs.25,000/- and Rs.30,000/- respectively. The amounts awarded by the Tribunal under all the other heads are just and reasonable and the same are hereby 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 for 7 months	49,000	49,000	Confirmed

2.	Transportation	15,000	15,000	Confirmed
3.	Extra Nourishment	20,000	25,000	Enhanced
4.	Damage to clothes	1,000	1,000	Confirmed
5.	Medical expenses	3,00,000	3,00,000	Confirmed
6.	Attendant Charges	10,000	10,000	Confirmed
7.	Loss of amenities of life	20,000	30,000	Enhanced
8.	Mental agony and pain and suffering	50,000	50,000	Confirmed
9.	Disability and loss of earning power	3,78,000	3,78,000	Confirmed
	Total	8,43,000	8,58,000	Enhanced by Rs.15,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.8,43,000/- is hereby enhanced to Rs.8,58,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd 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. 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.

kj

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

To

1.The II Judge
The Motor Accidents Claims Tribunal
Small Causes Court, Chennai.

Copy to:-

The Section Officer
V.R.Section
High Court, Chennai.

+1cc to Mr.S.Arun Kumar, Advocate, SR.No.14211/19
+1cc to Mr.K.Varadha Kamaraj, Advocate, SR.No.12727

C.M.A.No.1351 of 2016

Kak(11/06/2019)



WEB COPY