



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

C.M.A.No.1905 of 2016

B.Rasheed

... Appellant/claimant

..vs..

1. Lao Kumar Singh
 2. The Oriental Insurance Company Limited
No.1 Abdul Razack Street, Saidapet,
Chennai - 15
- ... Respondents/Respondents/
Insured and the Insurer

Appeal filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and Decree, dated 06.08.2012 made in M.C.O.P.No.147 of 2011 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj
For Respondents : Mr.D.Baskaran, for R-2,
No Appearance, for R-1.

J U D G M E N T

The claimant, who is a Driver, aged 29 years, earning a sum of Rs.6,000/- per month, met with an accident on 19.06.2010 and in respect of the injuries sustained, he filed a claim petition claiming a sum of Rs.2,75,000/- as compensation before the Tribunal.

2. The Tribunal has awarded a sum of Rs.1,19,550/- as total compensation under the following break up details:-

Medical expenses	-	Rs.	5,550.00
Transport expenses	-	Rs.	4,000.00
Extra nourishment	-	Rs.	6,000.00
Attender Charges	-	Rs.	5,000.00
Damage to clothing	-	Rs.	1,000.00
Loss of Income during treatment period	-	Rs.	18,000.00



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Loss of future earnings on account of disability -	Rs. 60,000.00
Pain and suffering -	Rs. 20,000.00

	Rs. 1,19,550.00

3. Since the appellant has raised issues with regard to the quantum alone, this Court would like to deal with the quantum alone, eschewing the negligence aspect.

4. While awarding compensation for the injuries sustained, the Tribunal has relied upon Exs.P-2 and P-3, Discharge Summaries, which would show that the claimant had been admitted in the Government General Hospital, Chennai, from 19.06.2010 to 23.06.2010 and also in Meenakshi General Hospital, Chennai, from 08.07.2010 to 15.07.2010 and taking treatment towards the fractures suffered.

5. According to the medical records available, the appellant / claimant has suffered lefort II fracture, ZMC fracture, injury over vertebral column, lacerated injuries and multiple injuries all over the body. The Doctor, P.W.2, has assessed the claimant and fixed the disability at 35%.

6. The Tribunal did not accept the disability at 35% and it has taken the disability only at 30%. There is a finding by P.W.2-Doctor that nasal bone fracture reduced with closed method on the claimant. Hence, considering the overall circumstances this Court is of the opinion that the disability could be taken as 30%, as done by the Tribunal.

7. The learned counsel for the appellant / claimant would state that the amounts awarded under Transportation Expenses, Extra Nourishment and pain and suffering are on the lower side, which needs considerable enhancement. He further submitted that the amount awarded under the head 'disability' at Rs.60,000/- by taking Rs.2,000/- per percentage of disability is on the lower side and contended that the same should be taken at Rs.3,000/- per percentage of disability, since the accident was of the year 2010.

8. Per contra, the learned counsel for the second respondent / Insurer submitted that the Tribunal has considered all the aspects into consideration and has awarded the just compensation, which does not require any interference by this Court.

9. The contention of the learned counsel for the appellant / claimant stands on a higher pedestal rather than the second



respondent, since there are evidence and documents to support the contention of the appellant. Further, the respondents have neither adduced any evidence nor marked any document to sustain their claim or to controvert the claim made by the claimants. Thus this Court is of the view that the amounts awarded by the Tribunal need increase, of course significantly. Hence, the amounts awarded under the heads, Transportation Expenses, Extra Nourishment and Pain and Suffering are enhanced to Rs.10,000/-, Rs.10,000/- and Rs.30,000/-, respectively.

9.1. Calculating the compensation for the disability at Rs.3,000/- per percentage in respect of 30% disability, the amount to be awarded under the head disability would be Rs.90,000/- and the same stands modified to Rs.90,000/-. Hence, in total, a sum of Rs.50,000/- is enhanced.

9.2. The amount awarded under other heads, viz., Medical Expenses, Attendant charges, Damage to Clothing and Loss of earning during treatment period commensurates with the nature of injury and period of treatment by the appellant / claimant and hence the same are confirmed as such.

9.3. The restructured breakup details of the compensation awarded read thus:

Medical expenses	-	Rs.	5,550.00
Transport expenses	-	Rs.	10,000.00
Extra nourishment	-	Rs.	10,000.00
Attender Charges	-	Rs.	5,000.00
Damage to clothing	-	Rs.	1,000.00
Loss of Income during treatment period	-	Rs.	18,000.00
Loss of future earnings on account of disability	-	Rs.	90,000.00
Pain and suffering	-	Rs.	30,000.00

			Rs. 1,69,550.00

10. Thus the appellant / claimant is entitled to the modified compensation of Rs.1,69,550/-. It is made clear that for the compensation amount of Rs.1,19,550/- ordered by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of petition. For the enhanced amount of compensation, the interest rate of 7.5% per annum shall be calculated from the date of filing of this Appeal.

11. In the result, this Civil Miscellaneous Appeal filed by the appellant / claimant is partly-allowed. The second respondent / Insurance Company is directed to deposit the modified amount of compensation as ordered above, less the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the entire



amount to the Savings Bank Account of the appellant / claimant within one week thereafter, through RTGS. Needless to state that the appellant shall pay the court fee for the enhanced compensation amount before receiving the copy of this judgment. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal,
IV Small Causes Court,
Chennai

Copy to

The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.

+1cc to Mr.D.Baskaran, Advocate, S.R.No.97407.

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.97523

C.M.A.No.1905 of 2016

BP(CO)
HS(17/08/2021)