

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1194 of 2018

P.Annarayar

.. Appellant/Petitioner

Vs.

1.M/s.Kumaran Constructions,
No.98, Sanjaipuram,
Kilpauk, Chennai 10.

(R1 remained ex parte before the Tribunal
and hence notice may be dispensed with)

2.The United India Insurance Co. Ltd.,
Motor III party Claims Office,
No.38, Anna Salai,
Chennai 2.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 30.04.2010, made in M.C.O.P.No.618 of 2006, on the file of the Fast Track Court No.1, Additional District and Sessions Court, (Motor Accident Claims Tribunal), Poonamallee.

For Appellant : Ms.Y.Jayanthi Bhaskar
for Mr.J.Mahalingam

For R1 : Ex parte

For R2 : Mr.S.Arunkumar

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 30.04.2010, made in M.C.O.P.No.618 of 2006, on the file of the Fast Track Court No.1, Additional District and Sessions Court, (Motor Accident Claims Tribunal), Poonamallee.

2.The appellant/claimant filed M.C.O.P.No.618 of 2006, on the file of the Fast Track Court No.1, Additional District and Sessions Court, (Motor Accident Claims Tribunal), Poonamallee, claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 22.02.2006.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the motorcycle belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.66,000/- as compensation to the appellant.

4.Not being satisfied with the amounts granted by the Tribunal in the award dated 30.04.2010, made in M.C.O.P.No.618 of 2006, the appellant has come out with the present appeal.

5.The learned counsel appearing for the appellant contended that the appellant was a curry leaves wholesale vendor at Koyambedu market and was earning a sum of Rs.300/- per day. Due to the accident, he suffered wedge compression fracture and fracture of right shoulder and other serious multiple injuries all over the body. The appellant has taken treatment as in-patient in Government General Hospital from 22.02.2006 to 27.02.2006. The Tribunal granted a meagre sum of Rs.3,000/- towards loss of income. P.W.2-Doctor assessed that the appellant suffered 35% disability. The Tribunal granted a meagre sum of Rs.1,000/- per percentage for 35% disability. The Tribunal ought to have adopted the multiplier method to award compensation. The Tribunal failed to grant any amount towards attender charges, loss of mental agony, damages for the loss of expectation of life and loss of amenities. In any event, the total compensation granted by the Tribunal is meagre and prayed for enhancement of the compensation.

6.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 which are not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellant as well as the 2nd respondent and perused the materials available on record.

8.From the materials on record, it is seen that the appellant contended that he was a vendor at Koyambedu Market and was earning a sum of Rs.300/- per day. The Tribunal erroneously granted a meagre sum of Rs.3,000/- as the loss of income to the appellant. Due to the accident, the appellant suffered multiple injuries and fractures. He took treatment as in-patient in

Hospital from 22.02.2006 to 27.02.2006. He would not have worked during the treatment period. Hence, the amount granted towards loss of income is enhanced to Rs.20,000/-. P.W.2-Doctor assessed that the appellant suffered 35% permanent disability. The Tribunal granted a meagre sum of Rs.1,000/- per percentage for the disability. The accident is of the year 2006. The appellant is entitled to a sum of Rs.70,000/- for disability at the rate of Rs.2,000/- per percentage for 35% disability. The amounts granted by the Tribunal towards transportation, extra nourishment and pain and suffering are meagre. The same are enhanced to Rs.5,000/- towards transportation, Rs.10,000/- towards extra nourishment and a sum of Rs.20,000/- towards pain and suffering. The Tribunal failed to grant any amount towards attender charges and loss of amenities. Hence, a sum of Rs.10,000/- each is granted towards the said heads respectively. The amount granted by the Tribunal towards medical expenses is just and reasonable and hence, the same is 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	3,000/-	20,000/-	Enhanced
2.	Transportation	3,000/-	5,000/-	Enhanced
3.	Extra nourishment	5,000/-	10,000/-	Enhanced
4.	Disability	35,000/-	70,000/-	Enhanced
5.	Medical expenses	10,000/-	10,000/-	Confirmed
6.	Pain and suffering	10,000/-	20,000/-	Enhanced
7.	Loss of amenities	-	10,000/-	Granted
8.	Attender charges	-	10,000/-	Granted
	Total	66,000/-	1,55,000/-	Enhanced by Rs.89,000/-

9. In the result, the appeal is partly allowed and award granted by the Tribunal at Rs.66,000/- is enhanced to Rs.1,55,000/- along with interest and costs. The 2nd respondent is directed to deposit the enhanced award amount 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.618 of 2006. On such deposit, the appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary applications before the Tribunal. The appellant is directed to pay the necessary Court fee, if any for the amount now enhanced by this Court. However, it is made clear that the appellant is not entitled for interest for the delay period on the amount enhanced by this Court. No costs.

Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

gsa

To

The Fast Track Court No.1,
Additional District and Sessions Judge,
(Motor Accident Claims Tribunal), Poonamallee

+1cc to Mr.S.Arunkumar, Advocate SR.No.42883

C.M.A.No.1194 of 2018

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

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