

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.824 of 2016

A.Ganesan

.. Appellant/Claimant

Vs.

1.S.Mohanarangam

2.Reliance General Insurance Company Ltd,
Reliance House, No.6, Haddows Road,
Nungambakkam,
Chennai - 34.

.. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 13.07.2015 made in M.C.O.P.No.1382 of 2011 on the file of the Motor Accident Claims Tribunal, I Additional Sub Court, Salem.

For Appellant : Mr.S.P.Yuaraj

For R1 : Exparte

For R2 : Mr.S.Arunkumar

सत्यमेव जयते
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 13.07.2015 made in M.C.O.P.No.1382 of 2011 on the file of the Motor Accident Claims Tribunal, I Additional Sub Court, Salem.

2.The appellant is claimant in M.C.O.P.No.1382 of 2011 on the file of the Motor Accident Claims Tribunal, I Additional Sub Court, Salem. He filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 17.09.2011. 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 Innova Car belonging to the 1st respondent and directed the 2nd respondent/Insurance Company to pay a sum of Rs.1,44,000/- as compensation to the appellant.

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

4. The learned counsel appearing for the appellant contended that in the accident, the appellant has sustained multiple injuries all over the body. The appellant could not continue his work after the accident as he was doing earlier. The Tribunal without considering the same has awarded compensation towards disability by applying percentage method. The Tribunal ought to have adopted multiplier method for awarding compensation towards future loss of earning. PW2 Doctor assessed the disability of the appellant at 66.7% but the Tribunal reduced the same to 45% without giving any reason. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

5. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellant has not proved that he suffered functional disability and therefore the Tribunal has rightly applied percentage method for awarding compensation towards disability. Further, PW2 is not the Doctor who treated the appellant. Therefore, the Tribunal reduced the percentage of disability from 66.7% to 45%. The Tribunal after considering both oral and documentary evidence in proper perspective, awarded compensation which is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

7. From the materials available on record, it is seen that the appellant has sustained multiple injuries all over the body. He was admitted in the Government Medical College Hospital on 17.09.2011 and had taken treatment for 40 days as an in-patient from 17.09.2011 to 26.10.2011. A surgery was also performed on his stomach. PW2 Doctor assessed the disability of the appellant at 66.7% and the Tribunal reduced the same to 45%, holding that PW2 Doctor is not the Doctor who treated the appellant. The said reason given by the Tribunal is not proper. The appellant is entitled to compensation for 67% disability. Accordingly a sum

of Rs.2,01,000/- (Rs.3,000/- x 67%) is granted towards disability by awarding Rs.3,000/- per percentage. The appellant contended that he was an agricultural coolie earning a sum of Rs.7,500/- per month at the time of the accident. The appellant failed to produce any document to prove the same. In the absence of any material evidence, the Tribunal has awarded a sum of Rs.15,000/- towards loss of income which is meagre. A sum of Rs.6,500/- is fixed as monthly income. Due to injuries, the appellant could not have worked for atleast six months. The appellant is entitled to a sum of Rs.39,000/- (Rs.6,500/- x 6) as compensation towards loss of income for six months. The appellant has taken treatment as in-patient for 40 days. The Tribunal has not awarded any amount towards attendant charges and loss of amenities. A sum of Rs.40,000/- is awarded towards attendant charges and Rs.25,000/- is awarded towards loss of amenities. The amounts awarded by the Tribunal towards pain & sufferings and extra nourishment are meagre and the same are enhanced to Rs.50,000/- and Rs.40,000/- respectively. The amount awarded by the Tribunal under other heads are just and reasonable and hence they 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.	Disability	90,000	2,01,000	Enhanced
2.	Pain and sufferings	25,000	50,000	Enhanced
3.	Extra nourishment	10,000	40,000	Enhanced
4.	Transport to Hospital	3,000	3,000	Confirmed
5.	Damages to clothing and articles	1,000	1,000	Confirmed
6.	Loss of income	15,000	39,000	Enhanced
7.	Attendant charges	-	40,000	Granted
8.	Loss of amenities	-	25,000	Granted
	Total	Rs.1,44,000/-	Rs.3,99,000/-	Enhanced by Rs.2,55,000/-

8.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,44,000/- is hereby enhanced to Rs.3,99,000/- together with interest at the rate of 7.5% 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. 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 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 VIII)

//True Copy//

Sub Assistant Registrar

mtl

To

1.The Motor Accidents Claims Tribunal,
I Additional Subordinate Judge,
Salem.

+1cc to Mr.S.Arun Kumar , Advocate SR.No. 105480

+1cc to Mr.S.P.Yuvaraj , Advocate SR.No. 104997

C.M.A.No.824 of 2016

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A.SK(01/12/2020)

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