



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1393 of 2019

J.Gopal

.. Appellant/Petitioner

Vs.

1.W.Rajula

2.The National Insurance Co., Ltd.,
751, Anna Salai,
Chennai - 2.

..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.01.2004 made in M.C.O.P.No.3891 of 2001 on the file of the Motor Accidents Claims Tribunal, Fast Track Court III, Chennai.

For Appellant : M/s.Ramya V.Rao

For R2 : Mrs.R.Sree Vidhya

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 07.01.2004 made in M.C.O.P.No.3891 of 2001 on the file of the Motor Accidents Claims Tribunal, Fast Track Court III, Chennai.

2.The appellant is claimant in M.C.O.P.No.3891 of 2001 on the file of the Motor Accidents Claims Tribunal, Fast Track Court III, Chennai. He filed the above 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 15.06.2000. 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 lorry belonging to the first respondent and directed the first respondent as well as the second respondent/Insurance Company to pay jointly and severally a sum of Rs.2,57,300/- as compensation to the appellant/claimant. Not being satisfied with the award amount



granted by the Tribunal, the appellant has come out with the present appeal for enhancement of compensation.

3. The learned counsel appearing for the appellant submitted that the appellant has lost his entire left eye vision due to the injuries sustained by him in the accident and he has taken treatment in hospital for a long time. The appellant was a driver and earning a sum of Rs.6,000/- per month. The Tribunal erroneously fixed a sum of Rs.1,500/- as monthly income. The appellant did not work from 15.06.2000 to 15.06.2001 due to the injuries sustained by him in the accident. The Tribunal has not awarded any amount for loss of income, attendant charges, pain and sufferings. The amounts granted by the Tribunal for extra nourishment and transportation are meagre and he suffered 100% disability. The Tribunal fixed a meagre sum of Rs.1,500/- and adopted multiplier method taking into consideration 100% disability and awarded a meagre sum of Rs.2,57,300/- by applying multiplier 18. The Tribunal erroneously deducted 1/3rd for personal expenses and prayed for enhancement of compensation.

4. Per Contra, the learned counsel appearing for the second respondent/Insurance Company contended that the Tribunal fixed proper monthly income and applied multiplier method for awarding compensation. The amounts awarded by the Tribunal under different heads are not meagre and prayed for dismissal of the appeal.

5. From the materials available on record, it is seen that the appellant has lost his entire left eye vision due to the injuries sustained by him in the accident. The contention of the appellant is that he was a driver and earning a sum of Rs.6,000/- to Rs.10,000/- per month. The appellant has not produced any documents to prove his income. Hence, the Tribunal fixed the notional income of the appellant as Rs.18,000/- per annum at the rate of Rs.1,500/- per month and awarded compensation by applying multiplier 18 and deducting 1/3 towards personal expenses. The notional monthly income fixed by the Tribunal is meagre and this Court fixes the notional income as Rs.2,000/- per month. The deduction of 1/3rd towards personal expenses is set aside. The amount awarded by the Tribunal towards loss of income is modified to Rs.4,32,000/- (Rs.2,000/- X 12 X 18). The appellant was in hospital as in-patient for two different period from 15.06.2000 to 22.06.2000 and from 18.09.2000 to 20.09.2000. The Tribunal has not awarded any amount towards attendant charges and pain and sufferings. A sum of Rs.5,000/- and Rs.10,000/- is granted towards attendant charges and pain and sufferings respectively. The amount awarded towards extra nourishment is meagre and the same is enhanced to Rs.15,000/-. The amounts awarded under other heads are confirmed. Thus, the compensation awarded by the Tribunal



is enhanced as follows:-

S.N	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income	2,16,000	4,32,000	Enhanced
2.	Medical Expenses	6,300	6,300	Confirmed
3.	Transportation	5,000	5,000	Confirmed
4.	Extra Nourishment	5,000	15,000	Enhanced
5.	Facial Disfigurement	25,000	25,000	Confirmed
6.	Attendance Charges	-	5,000	Granted
7.	Pain and Sufferings	-	10,000/-	Granted
	Total	Rs.2,57,300	Rs.4,98,300/-	enhanced by Rs.2,41,000/-

6. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,57,300/- is hereby enhanced to Rs.4,98,300/- together with interest at the rate of 7.5% per annum for the enhanced award amount now determined by this Court from the date of petition till the date of deposit. The second respondent-Insurance Company is directed to deposit the enhanced award amount with interest and costs now determined by this Court, 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 (CCC)

//True copy//

Sub Assistant Registrar

rst/gbi



To

1.The Motor Accidents Claims Tribunal,
Fast Track Court III,
Chennai.

2.The Section Officer,
V.R.Section,
High Court,
Madras.

+1cc to Mr.A.N.Viswanatha Rao, Advocate SR.No.22442

+1cc to Mrs.R.Sree Vidhya, Advocate SR.No.23272

C.M.A.No.1393 of 2019

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