



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.143 of 2018

Bala Ananth

.. Appellant/ Petitioner

Vs.

1.Kathavarayan

2.Sri Ram General Insurance Co Ltd.,

No.4, Mookambika Complex,

2nd Floor, Lady Desika Road,

Mylapore, Chennai-4.

.. Respondents/ respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 25.11.2016 made in M.C.O.P.No.370 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub Court No. I, Villupuram.

For Appellant : Mr.K.Varadha Kamaraj

For R1 : No Appearance

For R2 : Mr.S.Dhakshnamoorthy

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award against the award dated 25.11.2016 made in M.C.O.P.No.370 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub Court No. I, Villupuram.

2.The appellant is claimant in M.C.O.P.No.370 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub Court No. I, Villupuram. He filed the above claim petition claiming a sum of Rs.5,00,000/- as compensation for the



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injuries sustained by him in the road accident that took place on 11.11.2014. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the 1st respondent/driver-cum-owner of the auto and insured with the 2nd respondent/Insurance Company and directed both 1st respondent as well as the 2nd respondent/Insurance Company jointly and severally to pay a sum of Rs.1,30,500/- as compensation to the appellant. Not being satisfied with the award of the Tribunal made in M.C.O.P.No.370 of 2015, the appellant has come out with the present appeal for enhancement of compensation.

3.The learned counsel appearing for the appellant contended that the appellant suffered grievous injury and permanent disability. The Tribunal awarded only a meager sum of Rs.22,500/- towards disability. The Tribunal ought to have applied multiplier method to award compensation. The appellant was 3rd year EEE student in Mailam Engineering College. The Tribunal has not awarded any amount for loss of income and loss of amenities. The appellant has taken treatment as inpatient in hospital from 11.11.2014 to 18.11.2014 and underwent surgery on 15.11.2014. The amount awarded by the Tribunal for extra nourishment, attendant charges, Transportation and pain and suffering are meager and prayed for enhancement of compensation.

4. 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 hence the appellant is not entitled to compensation by applying multiplier method. The amounts awarded by the Tribunal under different heads are not meager. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of appeal.

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

6.From the materials available on record, it is seen that the appellant was a 3rd year EEE student and in the accident he suffered multiple injuries. He has taken treatment as in-patient for 10 days. He contended that he has suffered injuries in his hand and fracture on face and leg and his studies were affected due to the accident. The appellant did not attend the class for 1 month due to the injuries and pain and suffering. To prove the said



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contention, the appellant examined himself as P.W.1, P.W.2-Doctor and filed disability certificate issued by the Medical Board, Villupuram. P.W.2-Doctor deposed that he conducted surgery for the appellant. The Tribunal accepting the evidence of P.W.2-Doctor and disability certificate, awarded compensation towards medical expenses and future medical expenses. The appellant was in hospital from 11.11.2014 to 18.11.2014. A sum of Rs.5,000/- each granted by the Tribunal towards extra nourishment and attendant charges are meagre and the same are enhanced to a sum of Rs.10,000/- each. A sum of Rs.1,000/- granted by the Tribunal towards damages to cloth is enhanced to Rs.2,000/-. The Tribunal has not awarded any amount towards loss of amenities. A sum of Rs.20,000/- is granted towards loss of amenities. The amounts granted by the Tribunal under other heads are just and reasonable and the same are confirmed. Thus, the compensation granted by the Tribunal is modified as follows:

SL. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
1.	Pain and Suffering	25,000	25,000	Confirmed
2.	Extra Nourishment	5000	10,000	Enhanced
3.	Damages to Cloth	1000	2000	Enhanced
4.	Transportation	5,000	5,000	Confirmed
5.	Disability	22,500	22,500	Confirmed
6.	Attendant Charges	5,000	10,000	Enhanced
7.	Future Medical expenses	40,000	40,000	Confirmed
8.	Medical expenses	27,000	27,000	Confirmed
9.	Loss of Amenities	-	20,000	Granted
	Total	Rs.1,30,500/-	Rs.1,61,500/-	Enhanced by Rs.31,000/-

7.In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal



at Rs.1,30,500/- is hereby enhanced to a sum of Rs.1,61,500/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Both the 1st respondent as well as the 2nd respondent/Insurance Company are jointly and severally 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 by making necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gbi/rst

To

1.The Motor Accident Claims Tribunal,
Special Sub Court No. I, Villupuram.

Copy to:

The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.K.Varadha Kamaraj , Advocate SR.No. 25239
+1cc to Mr.S.Dhakshnamoorthy , Advocate SR.No. 25196

C.M.A.No.143 of 2018

gj (CO)
A.SK(30/08/2019)