



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.167 of 2018

Ramanathan

.. Appellant/Petitioner

Vs.

1.Karthik

2.The New India Insurance Company Ltd.,
Rep. By its Manager,
No.4/46, Near Co-operative Sugar Mill
Office,
Morappur Main Road,
Karaimangalam Town,
Palacode Taluk,
Dharmapuri District.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.07.2017 made in M.C.O.P.No.224 of 2016 on the file of the Motor Accident Claims Tribunal, the Chief Judicial Magistrate, Dharmapuri.

For Appellant : Mr.S.Sathiaseelan
R2- : No Appearance

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 10.07.2017 made in M.C.O.P.No.224 of 2016 on the file of the Motor Accident Claims Tribunal, the Chief Judicial Magistrate, Dharmapuri.

2.The appellant is claimant in M.C.O.P.No.224 of 2016 on the file of the Motor Accident Claims Tribunal, the Chief Judicial Magistrate, Dharmapuri. He filed the said claim petition claiming a sum of Rs.25,00,000/- as compensation for the injuries sustained by him in the accident that took place on 15.12.2015. 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 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.15,55,325/- as compensation to the appellant, at first instance and recover the same from 1st respondent. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

3.The learned counsel appearing for the appellant contended that the appellant was doing Areca Plate manufacturer and Agriculturist and was earning a sum of Rs.30,000/- per month. The Tribunal has erroneously fixed a meagre sum of Rs.6,500/- as monthly income. The appellant was aged 56 years at the time of the accident. The Tribunal has not granted any amount towards future prospects. The appellant has taken treatment as in-patient at Ganga Hospital, Coimbatore from 16.12.2015 to 25.01.2016 and has taken continuous treatment as in-patient for 41 days. The appellant has underwent surgery and his right leg was amputated and he has suffered more pain. The amount granted by the Tribunal for pain and sufferings and extra nourishment are meagre. The Tribunal has not granted any amount towards attendant charges and loss of amenities and prayed for enhancement of compensation.

4.Though notice was served on the 2nd respondent-Insurance Company and their name is printed in the cause list, there is no representation on behalf of them either in person or through counsel.

5.Heard the learned counsel appearing for the appellant and perused all the materials available on record.

6.From the materials available on record, it is seen that the appellant has contended that he was doing Areca Plate manufacturer and owning the Agricultural land and was earning a sum of Rs.30,000/- per month. The appellant has failed to prove the income as stated in the claim petition. In the absence of any materials, the Tribunal has fixed Rs.6,500/- as monthly income of the appellant. The accident is of the year 2015, monthly income fixed by the Tribunal is meagre. A sum of Rs.9,000/- is fixed as monthly income of the appellant including future prospects. The amount granted by the Tribunal for disability is modified to Rs.9,23,400/- ($9,000 \times 12 \times 9 \times 95/100$). The appellant has underwent surgery and amputation in the right leg. The Tribunal has not awarded any amount towards artificial leg. A sum of Rs.1,00,000/- is granted towards artificial leg. The appellant has taken treatment as in-patient at Ganga Hospital, Coimbatore from 16.12.2015 to 25.01.2016 and



has taken continuous treatment as in-patient for 41 days. The Tribunal has not granted any amount towards loss of amenities. A sum of Rs.50,000/- is granted towards loss of amenities. The amounts granted by the Tribunal under other heads are 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.	Disability	6,66,900	9,23,400	Enhanced
2.	Pain and suffering	70,000	70,000	Confirmed
3.	Medical expenses	4,88,555	4,88,555	Confirmed
4.	Transportation charge	49,870	49,870	Confirmed
5.	Extra nourishment	50,000	50,000	Confirmed
6.	Mental agony	50,000	50,000	Confirmed
7.	Loss of earning capacity	50,000	50,000	Confirmed
8.	Future medical expenses	50,000	50,000	Confirmed
9.	Damages to articles	10,000	10,000	Confirmed
10.	Attendant charges	50,000	50,000	Confirmed
11.	Loss of life	20,000	20,000	Confirmed
12.	Artificial leg	-	1,00,000	Granted
13.	Loss of amenities	-	50,000	Granted
	Total	Rs.15,55,325/-	Rs.19,61,825/-	Enhanced by Rs.4,06,500/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.15,55,325/- is hereby enhanced to Rs.19,61,825/- 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, at first instance and recover the same from 1st respondent. On such deposit, the appellant/claimant 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(CO)

//True Copy//

Sub Assistant Registrar

mtl

To

1.The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Dharmapuri.

2.The Section Officer,
VR Section,
High Court,
Madras. +2 copies

+1 cc to Mr.S.Sathiaseelan Advocate sr 23527

C.M.A.No.167 of 2018

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