



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.237 of 2018

Prabhakaran

.. Appellant/Petitioner

Vs.

1.Sureshkumar

2.United India Insurance Co., Ltd.,
Shanmuga Complex,
1-15, 24-H, 1st Floor,
New Edappadi Road, Sankari

.. Respondents/Respondents

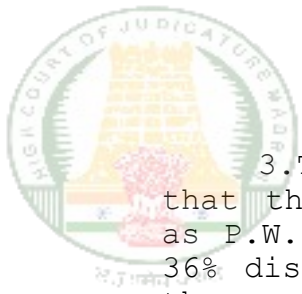
Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.10.2017 made in M.C.O.P.No.1044 of 2011 on the file of Motor Accident Claims Tribunal, Subordinate Court, Sankari.

For Appellant : Mr.T.S.Arthanareeswaran
For R2 : Mr.T.Ravichandran

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 20.10.2017 made in M.C.O.P.No.1044 of 2011 on the file of Motor Accident Claims Tribunal, Subordinate Court, Sankari.

2.The appellant is claimant in M.C.O.P.No.1044 of 2011 on the file of Motor Accident Claims Tribunal, Subordinate Court, Sankari. He filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 27.11.2011. 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 minidor belonging to the first respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.2,85,000/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.



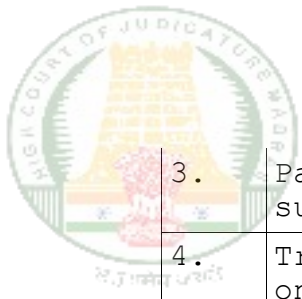
3.The learned counsel appearing for the appellant contended that the appellant has sustained injuries and examined himself as P.W.1 and P.W.2 - Doctor deposed that the appellant suffered 36% disability. The appellant was aged 21 years at the time of the accident. Due to the injuries and disability he could not continue his work as he was doing earlier and lost entire earning power. The Tribunal awarded meagre amount. The Tribunal ought to have applied multiplier method. The amounts awarded by the Tribunal towards transportation, pain and sufferings and attendant charges are meagre. The Tribunal has not awarded any amount towards extra nourishment and loss of amenities and prayed for enhancement of compensation.

4.Per Contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering the evidence of P.W.2-Doctor and nature of injuries sustained by the appellant reduced percentage of disability at 2% and awarded compensation excessively under different heads. In view of the same, the appellant is not entitled for any enhancement of compensation and prayed for dismissal of the appeal.

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

6.From the materials available on record, it is seen that the appellant sustained injuries and has taken treatment in hospital as in-patient from 27.11.2011 for 13 days. The Tribunal has reduced the percentage of disability from 36% to 34%, on the ground that the Doctor assessed disability including pain and suffering. The appellant is entitled compensation for entire 36% disability at Rs.3,000/- per percentage ($36 \times 3000 = 1,08,000$). A sum of Rs.3,000/- granted towards loss of amenities is meagre and the same is enhanced to Rs.10,000/-. The appellant due to the injuries could not have worked for some time. A sum of Rs.30,000/- is granted towards loss of income. The amounts awarded 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.	Permanent disability	1,02,000	1,08,000	Enhanced
2.	Medical expenses	65,000	65,000	Confirmed



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3.	Pain and suffering	50,000	50,000	Confirmed
4.	Transportation charges	10,000	10,000	Confirmed
5.	Nutritious food	25,000	25,000	Confirmed
6.	Attendant charges	5,000	5,000	Confirmed
7.	Future medical expenses	25,000	25,000	Confirmed
8.	Loss of amenities	3,000	10,000	Enhanced
9.	Loss of income	-	30,000	Granted
	Total	Rs.2,85,000/-	Rs.3,28,000/-	Enhanced by Rs.43,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,85,000/- is hereby enhanced to Rs.3,28,000/- 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/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 (CS-III)

//True Copy//

Sub Assistant Registrar

mtl

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sankari.



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

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+2cc to Mr.C.Paraneedharan, Advocate, S.R.No. 20866
+1cc to Mr.T.Ravichandran, Advocate, S.R.No. 21338

C.M.A.No.237 of 2019

SPD (CO)
GN (26/11/2019)