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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2297 of 2019

Periyasamy

.. Appellant/ Petitioner

Vs.

1.Murugan

2.The Oriental Insurance Co., Ltd.,
Parimalam Complex,
11, E.V.N.Road, 2nd Floor,
Erode - 638 011.

.. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.01.2019 made in M.C.O.P.No.295 of 2014 on the file of Motor Accident Claims Tribunal, Sub Court, Tiruchengode.

For Appellant : Mr.T.S.Arthanareeswaran

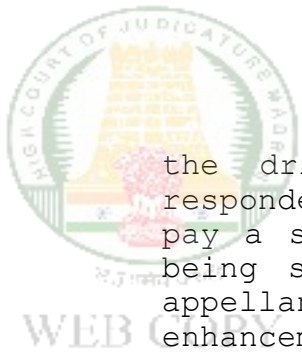
For R2 : Mr.J.Chandran

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 28.01.2019 made in M.C.O.P.No.295 of 2014 on the file of Motor Accident Claims Tribunal, Sub Court, Tiruchengode.

2.By consent of both the learned counsel appearing for the appellant and 2nd respondent/Insurance Company, the appeal is taken up for final disposal at the stage of admission itself.

3.The appellant is claimant in M.C.O.P.No.295 of 2014 on the file of Motor Accident Claims Tribunal, Sub Court, Tiruchengode. He filed the said claim petition claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 12.01.2013. 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 Maruthi omni car belonging to the 1st respondent and directed the 2nd respondent/Insurance Company to pay a sum of Rs.56,330/- 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.

4.The learned counsel appearing for the appellant contended that the Tribunal having held that the accident occurred only due to rash and negligent act of driver of Maruthi car, awarded only a meagre amount as total compensation. The appellant was running his own rig vehicle and doing agriculture work and earning a sum of Rs.30,000/- per month. The appellant was aged 55 years at the time of the accident. He was hale and healthy. Due to the accident, he sustained grievous injuries and bleeding injury on his left ear. The appellant immediately has taken first-aid treatment at Suriya Multi Specialty Hospital, Tiruchengode and further he has taken treatment as in-patient at KMCH Hospital, Coimbatore from 12.01.2013 to 15.01.2013. The Tribunal has not awarded any amount towards attendant charges, loss of amenities, transportation and damages to cloth 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 filed any document to prove his avocation and income. The appellant has suffered only simple injuries. In the absence of any material, the amounts awarded by the Tribunal under different heads are not meagre 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 contention of the appellant is that the appellant was running his own rig vehicle and doing agriculture work and was earning a sum of Rs.30,000/- per month. The appellant was aged 55 years at the time of the accident. The Tribunal considering the evidence of Ex.P4/wound certificate that the appellant suffered grievous injuries, awarded compensation under the heads of pain & suffering, extra nourishment and medical expenses, which are not meagre. The appellant has taken first-aid treatment at Suriya Multi Specialty Hospital, Tiruchengode and further he has taken treatment as in-patient at KMCH Hospital, Coimbatore from 12.01.2013 to 15.01.2013. The Tribunal has not awarded any amount towards attendant charges, loss of amenities, transportation and damages to cloth. Considering the materials in its entirety, the appellant is entitled to a sum of Rs.5,000/- towards attendant charges, Rs.20,000/- towards loss of amenities, Rs.10,000/- towards transportation and Rs.2,000/-



towards damages to cloth. 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.	Medical expenses	21,330	21,330	Confirmed
2.	Pain & suffering	25,000	25,000	Confirmed
3.	Extra nourishment	10,000	10,000	Confirmed
4.	Attendant charges	-	5,000	Granted
5.	Loss of amenities	-	20,000	Granted
6.	Transportation	-	10,000	Granted
7.	Damages to cloth	-	2,000	Granted
	Total	Rs.56,330/-	Rs.93,330/-	Enhanced by Rs.37,000/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.56,330/- is hereby enhanced to Rs.93,330/- 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

//True Copy//

Sub Assistant Registrar



To

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

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

+2cc to Mr.C.Paraneedharan, Advocate, SR.No.40145

+1cc to Mr.J.Chandran, Advocate, SR.No.41070

C.M.A.No.2297 of 2019

Kak(06/11/2019)