

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.580 of 2018

B.Tamilarasan

.. Appellant/Claimant

Vs.

1. N.L.Hariharan

2. M/s.ICICI Lombard General Insurance Co. Ltd.,
"Chottabai Centre",
No.140, Nungambakkam High Road,
Chennai-34. .. Respondents/Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 10.03.2016, made in M.C.O.P.No.68 of 2013, on the file of the II Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For R2 : Ms.R.Sreevidhya

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant seeking enhancement of the compensation granted by the Tribunal in the award dated 10.03.2016, made in M.C.O.P.No.68 of 2013, on the file of the II Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.By consent of both parties, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant/claimant filed M.C.O.P.No.68 of 2013, on the file of the II Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.30,00,000/- as compensation for the injuries sustained by him in the accident that took place on 27.04.2012.

4.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 the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.14,58,000/- as compensation to the appellant at the first instance and recover the same from the 1st respondent.

5.Not being satisfied with the amounts granted by the Tribunal in the award dated 10.03.2016, made in M.C.O.P.No.68 of 2013, the appellant has come out with the present appeal.

6.The learned counsel appearing for the appellant contended that the appellant suffered bilateral frontal haemorrhage and P.W.3-Doctor has certified that the appellant suffered permanent and partial disability of 20%. The Tribunal ought to have taken note of this and fixed 100% loss of earning power for the appellant. The Tribunal has not granted any amount towards future prospects and future medical expenses. The amounts granted by the Tribunal towards attender charges, loss of amenities, pain and suffering and a consolidated sum towards transportation and extra nourishment are very meagre and prayed for enhancement of the compensation.

7.Per contra, Ms.R.Sreevidhya, learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering the evidence of P.W.3-Doctor, granted compensation towards the disability suffered by the appellant. The Tribunal has rightly considered that the appellant is a student and not awarded any amount towards loss of income. The amounts granted by the Tribunal under different heads are not meagre and the appellant is not entitled for any enhancement of compensation and prayed for dismissal of the appeal.

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

9.From the award of the Tribunal, it is seen that the Tribunal considering the evidence of P.W.3-Doctor and the nature of injuries sustained by the Doctor, granted compensation towards disability, attender charges, damages for pain, suffering and trauma, which are in order. The Tribunal on a perusal of the medical bills marked as exhibits and other materials on record, awarded compensation towards medical expenses, transportation, nourishing food and miscellaneous expenditure and a consolidated sum towards future prospects,

amenities and marriage. The consolidated sum granted is meagre and the same is set aside. A sum of Rs.1,00,000/- is granted towards marital prospects and a sum of Rs.40,000/- is granted towards loss of amenities. The amounts granted by the Tribunal under other heads are just and reasonable and hence, they are confirmed hereby. 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.	Transportation, nourishing food and miscellaneous expenditure	50,000/-	50,000/-	Confirmed
2.	Medical expenses	11,03,000/-	11,03,000/-	confirmed
3.	Attender charges	20,000/-	20,000/-	Confirmed
4.	Disability	1,95,000/-	1,95,000/-	confirmed
5.	Damages for pain, suffering and trauma	50,000/-	50,000/-	confirmed
6.	Loss of future prospects and amenities and marriage	40,000/-	-	Set aside
7.	Marital prospects	-	1,00,000/-	granted
8.	Loss of amenities	-	40,000/-	granted
	Total	14,58,000/-	15,58,000/-	Enhanced by Rs.1,00,000/-

10. In the result, the appeal is allowed and award granted by the Tribunal at Rs.14,58,000/- is enhanced to Rs.15,58,000/- along with interest and costs. The 2nd respondent is directed to deposit the enhanced award amount 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, to the credit of M.C.O.P.No.68 of 2013 at the first instance and recover the same from the 1st respondent. On such deposit, the appellant is permitted to withdraw the award amount along with interest and costs, less the amount already withdrawn if any, by

filing necessary applications before the Tribunal. No costs. However, it is made clear that the appellant is not entitled for any interest for the delay period.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The II Judge,
Small Causes Court,
(Motor Accident Claims Tribunal),
Chennai.

Copy To

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

+1cc to Ms.R.Sreevidhya, Advocate, S.R.No.22453
+1cc to Mr.K.Varadhakamaraj, Advocate, S.R.No.21330

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SV(CO)
CS/07/08/2019



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