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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.661 of 2018

Prabhu .. Appellant / Petitioner

Vs.

1.S.Saravanan

2.The United India Insurance Company Ltd.,
No.54, Kamaraj Nagar,
Indra Gandhi Salai,
Panruti,
Cuddalore District.

.. Respondents / Respondents

(No relief sought against the first respondent.
Hence Notice may be dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 01.04.2016 made in M.C.O.P.No.109 of 2011 on the file of the Motor Accident Claims Tribunal, Sub Court, Panruti.

For Appellant : Mr.D.S.Thirumavalavan

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 01.04.2016 made in M.C.O.P.No.109 of 2011 on the file of the Motor Accident Claims Tribunal, Sub Court, Panruti.

2.The appellant is claimant in M.C.O.P.No.109 of 2011 on the file of the Motor Accident Claims Tribunal, Sub Court, Panruti. The appellant filed the said claim petition claiming a sum of Rs.14,75,000/- as compensation for the injuries sustained by him in the accident that took place on 04.04.2011. 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 TVS motorcycle belonging to 1st respondent and



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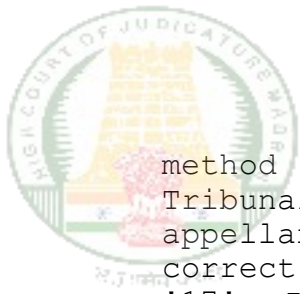
directed the 2nd respondent-Insurance Company to pay a sum of Rs.7,36,540/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

3.The learned counsel appearing for the appellant contended that the appellant sustained multiple injuries and fracture. The appellant was examined by P.W.4 - Doctor and proved that the appellant has suffered 40% disability. The Tribunal has reduced the percentage of disability to 35%. The appellant was working as a fitter and was earning a sum of Rs.7,500/- per month. To prove the said contention, the appellant has examined P.W.3 to show that the appellant in addition to the sum of Rs.7,500/- per month was getting Rs.100/- as batta. The Tribunal erroneously fixed Rs.7,500/- per month instead of Rs.9,500/- per month. The appellant was aged 22 years at the time of the accident. The Tribunal applied multiplier '17' instead of '18'. The amount granted by the Tribunal for pain and suffering is meagre 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 nature of injuries, age, avocation, evidence of P.W.4- Doctor fixed monthly income and granted compensation by applying multiplier method and compensation awarded by the Tribunal under different heads are not meagre 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-Insurance Company and perused all the materials available on record.

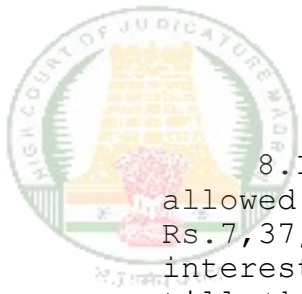
6.From the materials available on record, it is seen that the appellant has contended that he was working as a fitter in Senthil Kumar Rewinding and Lathe Labour works, and was earning a sum of Rs.7,500/- per month in the claim petition. At the time of trial, the appellant has examined P.W.3 to show that the appellant in addition to the salary was getting Rs.100/- per day as batta. Due to the injuries he could not continue his work as he was doing earlier. The Tribunal accepted the monthly income as claimed by the appellant and rejected the contention of the learned counsel for the appellant that he was getting Rs.100/- per day as batta as the same was not proved. P.W.4 Doctor assessed the disability of the appellant at 40%. The Tribunal considering the nature of injuries and evidence of P.W.4-Doctor, reduced percentage of disability to 35% on the ground that the Doctor in his evidence admitted that he has assessed the percentage of disability approximately, applied multiplier



method and granted compensation. The reason given by the Tribunal for reducing the percentage of disability is valid. The appellant was aged 22 years at the time of the accident. The correct multiplier is '18'. The Tribunal applied multiplier '17'. In view of the same, the amount granted by the Tribunal for disability is modified to Rs.5,67,000/- ($7,500 \times 12 \times 18 \times 35/100$). The amounts granted by the Tribunal under other heads are not meagre and the same 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	5,35,500	5,67,000	Enhanced
2.	Pain and suffering & Mental agony	50,000	50,000	Confirmed
3.	Transportation charges	17,700	17,700	Confirmed
4.	Medical bills	19,800	19,800	Confirmed
5.	Extra nourishment	15,000	15,000	Confirmed
6.	Attender charges	10,000	10,000	Confirmed
7.	Loss of income	22,500	22,500	Confirmed
8.	Loss of earning capacity	35,000	35,000	Confirmed
9.	Future medical expenses	15,000	15,000	Confirmed
10.	Damages to cloth	1,999	1,999	Confirmed
11.	Loss of amenities	15,000	15,000	Confirmed
	Total	Rs.7,37,499/-	Rs.7,68,999/-	Enhanced by Rs.31,500/-

7. Though the Tribunal has arrived a sum of Rs.7,37,499/- as compensation payable to the appellant, erroneously awarded only a sum of Rs.7,36,540/- as compensation.



8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,37,499/- is hereby enhanced to Rs.7,68,999/- 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(CCC)

//True Copy//

Sub Assistant Registrar

mtl

To

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

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

+1 cc to M/s.D.S.Thirumavalavan, Advocate, S.R.No.24428

+1 cc to M/s.J.Chandran, Advocate, S.R.No.24118

C.M.A.No.661 of 2018

RSI (CO)
SSM(19/08/2019) .