



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.664 of 2018

Velayudham .. Appellant / Petitioner

Vs.

1. Jai Sankar

2. Reliance General Insurance Co. Ltd.,
Reliance House,
No.6, Haddows Road,
Nungambakkam,
Chennai 600 034.

.. Respondents / Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 10.08.2017, made in M.C.O.P.No.2314 of 2015, on the file of the IV Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

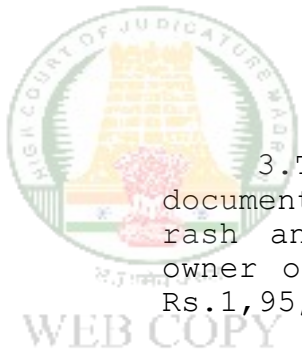
For Appellant : Mr.K.Suryanarayanan
for Mr.R.Manibarathi

For R2 : No appearance

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 award dated 10.08.2017, made in M.C.O.P.No.2314 of 2015, on the file of the IV Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

2.The appellant-claimant filed M.C.O.P.No.2314 of 2015, on the file of the IV Court of Small Causes, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 25.11.2014.



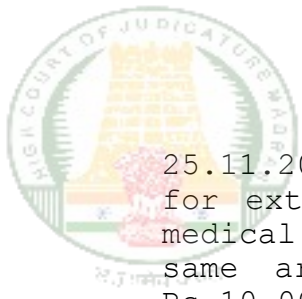
3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 1st respondent, driver-cum-owner of the car and directed the respondents to pay a sum of Rs.1,95,900/- as compensation to the appellant.

4.Not being satisfied with the amounts granted by the Tribunal in the award dated 10.08.2017, made in M.C.O.P.No.2314 of 2015, the appellant has come out with the present appeal.

5.The learned counsel appearing for the appellant contended that the appellant sustained fracture in both tibia and fibula bones of right leg and connective injury to the right knee. Due to the said injuries, he could not do the work as he was doing earlier. The appellant has undergone surgery along with skin grafting in his right leg. P.W.2-Doctor has assessed 45% disability suffered by the appellant. The appellant requires help of others even to attend nature's call. The Tribunal failed to take into consideration the future medical expenses, regarding removal of plate and screw in the leg. The amounts granted by the Tribunal under other heads are meagre and prayed for enhancement of the compensation.

6.Heard the learned counsel appearing for the appellant and perused the materials available on record. Though notice has been served on the 2nd respondent and its name is printed in the cause list, there is no representation for them either in person or through counsel.

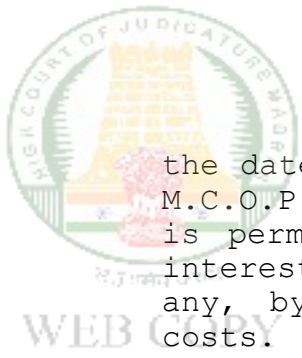
7.From the materials on record, it is seen that P.W.2-Doctor assessed that the appellant suffered 45% disability. The Tribunal reduced the same to 35% on the ground that the Doctor has not assessed the disability to the whole body and granted compensation for 30% at the rate of Rs.3,000/- per percentage. The reason given by the Tribunal is not correct. The appellant is entitled to a sum of Rs.1,35,000/- for 45% disability at the rate of Rs.3,000/- per percentage. The appellant has contended that he was working as a driver and was earning a sum of Rs.20,000/- per month. He failed to prove the same. In the absence of any evidence, the Tribunal fixed a sum of Rs.6,500/- as the monthly income. The same is meagre. The monthly income of the appellant is fixed at Rs.9,000/-. Due to the injuries and the nature of treatment taken, the appellant would have taken rest atleast for 6 months. The appellant is entitled to a sum of Rs.54,000/- towards loss of income for a period of six months. The appellant has taken treatment as in-patient in hospital from



25.11.2014 to 16.12.2014. The amounts granted by the Tribunal for extra nourishment, transportation, attender charges, future medical expenses and loss of amenities are meagre. Hence, the same are enhanced as Rs.15,000/- towards extra nourishment, Rs.10,000/- towards transportation, Rs.15,000/- towards attender charges, Rs.10,000/- towards future medical expenses and a sum of Rs.25,000/- towards loss of amenities. The amounts granted by the Tribunal under other heads are just and reasonable 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	1,05,000/-	1,35,000/-	Enhanced
2.	Pain and suffering	35,000/-	35,000/-	confirmed
3.	Extra nourishment	3,500/-	15,000/-	Enhanced
4.	Transportation	3,500/-	10,000/-	Enhanced
5.	Damages to clothes	1,000/-	1,000/-	Confirmed
6.	Attender charges	4,400/-	15,000/-	Enhanced
7.	Medical expenses	7,500/-	7,500/-	Confirmed
8.	Future medical expenses	5,000/-	10,000/-	Enhanced
9.	Loss of income	26,000/-	54,000/-	Enhanced
10.	Loss of amenities	5,000/-	25,000/-	Enhanced
	Total	1,95,900/-	3,07,500/-	Enhanced by Rs.1,11,600/-

8. In the result, the appeal is partly allowed and compensation granted by the Tribunal at Rs.1,95,900/- is enhanced to Rs.3,07,500/- along with interest and costs. The respondents are directed to deposit the enhanced award amount along with interest and costs, 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.2314 of 2015. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The IV Court of Small Causes,
(Motor Accident Claims Tribunal),
Chennai.
2. The Section Officer,
V.R Section,
High Court, Madras.

+1 cc to Mr.R.Manibarathi, Advocate, S.R.No.32586

C.M.A.No.664 of 2018

CA(CO)
SSM(21/08/2019)