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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.79 of 2018

R.Mathiazhagan

.. Appellant/Claimant

Vs.

1.S.Ramya

2.The Divisional Manager,
M/s.National Insurance Co. Ltd.,
No.74-A, Paramathi Road,
Namakkal - 637 001.

.. Respondents /Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 09.08.2017 made in M.C.O.P.No.664 of 2013 on the file of Motor Accident Claims Tribunal, Principal District Court, Perambalur.

For Appellant : Mr.T.A.Srinivasen

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 09.08.2017 made in M.C.O.P.No.664 of 2013 on the file of Motor Accident Claims Tribunal, Principal District Court, Perambalur.

2.The appellant is claimant in M.C.O.P.No.664 of 2013 on the file of Motor Accident Claims Tribunal, Principal District Court, Perambalur. 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 22.03.2013. 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 Taurus lorry belonging to the 1st respondent and directed the 2nd - respondent Insurance



Company to pay a sum of Rs.1,13,039/- as compensation to the appellant. Not being satisfied with the above amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

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3.The learned counsel appearing for the appellant/claimant contended that the Tribunal failed to consider Ex.A2 and Ex.A3, which clearly disclosed that the injuries sustained by the appellant are grievous in nature. The appellant examined P.W.2-Doctor, who deposed that the appellant is facing difficulty in using his right hand. The appellant suffered disfigurement. The Tribunal has awarded only compensation towards pain and suffering and medical expenses. The Tribunal failed to grant any amount towards attendant charges and loss of income. On 22.03.2013, the appellant has taken treatment as in-patient at Government Hospital, Perambalur. The appellant has taken continuous treatment for 2 days at SKS Hospital, Perambalur and has taken treatment for 6 days at Front Line Hospital, Trichy. The appellant was working as a driver and was earning a sum of Rs.10,000/- per month. The Tribunal failed to grant amounts under various heads and prayed for enhancement of compensation.

4.Per contra, Mr.J.Chandran, the learned counsel appearing for the 2nd respondent-Insurance Company contended that P.W.2-Doctor deposed that the appellant has not suffered any disability. The appellant has not produced any documents that he suffered loss of estate, loss of income during the treatment period and after treatment period. Without properly considering the evidence of P.W.2 - Doctor, the Tribunal has awarded excessive amount of Rs.50,000/- towards pain and suffering and Rs.63,039/- towards medical expenses. In view of the same, the appellant is not entitled for any enhancement 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 sustained injuries and on 22.03.2013, he has taken treatment as in-patient at Government Hospital, Perambalur. The appellant has taken continuous treatment for 2 days at SKS Hospital, Perambalur and taken treatment for 6 days at Front Line Hospital, Trichy. The appellant examined himself as P.W.1 and P.W.2-Doctor to prove the nature of injuries. P.W.2-Doctor deposed that due to the fracture, surgery was conducted on 26.03.2013 and there was disfigurement in the hand and it will be difficulty for the appellant in using his right hand. P.W.2-Doctor has not deposed that the appellant suffered any



disability. Considering the evidence of P.W.2 - Doctor, the Tribunal has awarded a sum of Rs.50,000/- towards pain and suffering and Rs.64,669/- towards medical expenses, which are proper and the same are confirmed. The contention of the learned counsel for the appellant is that due to the injuries and surgery, the appellant could not work for six months. This contention has considerable force. The Tribunal has not awarded any amount towards attendant charges, extra nourishment, loss of amenities, damages to cloth, disfigurement and loss of income and this Court awards a sum of Rs.10,000/-, Rs.10,000/-, Rs.20,000/-, Rs.1,000/-, Rs.20,000/- and Rs.30,000/- respectively. 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.	Pain and suffering	50,000	50,000	Confirmed
2.	Medical expenses	63,039	63,039	Confirmed
3.	Attendant charges	-	10,000	Granted
4.	Extra nourishment	-	10,000	Granted
5.	Disfigurement	-	20,000	Granted
6.	Damages to cloth	-	1,000	Granted
7.	Loss of amenities	-	20,000	Granted
8.	Loss of income	-	30,000	Granted
	Total	Rs.1,13,039/-	Rs.2,04,039/-	Enhanced by Rs.91,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,13,039/- is hereby enhanced to Rs.2,04,039/- 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.

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s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

mtl
To
1.The Principal District Judge,
Motor Accidents Claims Tribunal,
Perambalur.

Copy to
The Section Officer,
VR Section,
High Court,
Madras.

+2 Ccs to Mr.C. Thangaraju, Advocate sr 21042.
+1 CC to Mr.J.Chandran, Advocate sr 21016.

C.M.A.No.79 of 2018

SPD(CO)
SP(23/09/2019)