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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.975 of 2018

S.Vigneshwaran

.. Appellant/Claimant

Vs.

1.I.Sudhakar

2.United India Insurance Co. Ltd.,
Motor Third Party Claims Hub,
No.134, IV Floor, Greams Road,
Chennai 600 006.

.. Respondents/Respondents

(1st respondent remained exparte in
Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 25.01.2018, made in M.C.O.P.No.526 of 2015, on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.S.Partheeban

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 25.01.2018, made in M.C.O.P.No.526 of 2015, on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

2.The appellant/claimant filed M.C.O.P.No.526 of 2015, on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 02.11.2014.



3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Mahindra Maxi Cab belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.4,28,300/- as compensation to the appellant.

4.Not being satisfied with the amounts granted by the Tribunal in the award dated 25.01.2018, made in M.C.O.P.No.526 of 2015, the appellant has come out with the present appeal.

5.The learned counsel appearing for the appellant contended that the appellant was doing business and was earning a sum of Rs.15,000/-per month. The Tribunal erred in granting a meagre sum of Rs.15,000/- towards loss of income. The appellant has taken treatment as in-patient in hospital from 02.11.2014 to 17.11.2014. The Tribunal failed to take into consideration the discharge summary and in any event, the total compensation 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-Insurance Company and Mr.G.Udhayasankar, learned counsel filed vakalat and the same was returned, there is no representation for the 2nd respondent today.

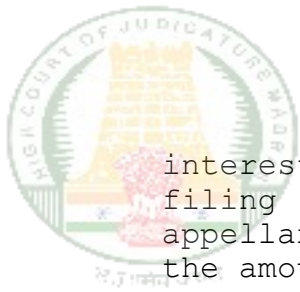
7.From the materials on record, it is seen that the appellant sustained fracture of both bones in right leg and fracture lateral malleolus right and has taken treatment as in-patient in hospital from 02.11.2014 to 17.11.2014. The appellant was aged 25 years and at the time of accident, he was doing business and earning a sum of Rs.15,000/- per month. The Tribunal erroneously granted a meagre sum towards loss of income. A sum of Rs.10,000/- is fixed as the notional income of the appellant and Rs.60,000/- is granted towards loss of income for a period of six months. The amounts granted by the Tribunal towards attender charges, pain and suffering, extra nourishment, transportation to hospital, damages to clothes and future medical expenses are meagre. Hence the same are enhanced to Rs.40,000/- towards pain and suffering, Rs.20,000/- towards extra nourishment, Rs.10,000/- towards transportation, Rs.2,000/- towards damages to clothes, Rs.15,000/- towards attender charges and Rs.20,000/- towards future medical expenses. The amounts granted by the Tribunal under other heads



are just and reasonable and hence, they 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	60,000/-	60,000/-	Confirmed
2.	Pain and suffering	25,000/-	40,000/-	Enhanced
3.	Transportation	5,000/-	10,000/-	Enhanced
4.	Extra nourishment	5,000/-	20,000/-	Enhanced
5.	Damages to clothes	500/-	2,000/-	Enhanced
6.	Attender charges	3,200/-	15,000/-	Enhanced
7.	Medical expenses	3,09,583/-	3,09,583/-	Confirmed
8.	Future medical expenses	2,500/-	20,000/-	Enhanced
9.	Loss of income	15,000/-	60,000/-	Enhanced
10.	Loss of amenities	2,500/-	2,500/-	Confirmed
	Total	4,28,283/- rounded off to Rs.4,28,300/-	5,39,083/- rounded off to Rs.5,39,100/-	Enhanced by Rs.1,10,800/-

8. In the result, the appeal is partly allowed and compensation granted by the Tribunal at Rs.4,28,300/- is enhanced to Rs.5,39,100/- 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.526 of 2015. On such deposit, the appellant is permitted to withdraw the enhanced award amount along with



interest and costs, less the amount already withdrawn if any, by filing necessary applications before the Tribunal. No costs. The appellant is directed to pay the necessary Court fee, if any for the amount now enhanced by this Court.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Motor Accident Claims Tribunal,
III Judge,
Court of Small Causes,
Chennai.

C.M.A.No.975 of 2018

vd(co)
nr 11.12.2019