

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM:

THE HON'BLE MR.JUSTICE.R.MAHADEVAN

C.M.A.No.3980 of 2008

Elangovan @ Elango

.... Appellant/claimant

Vs.

1. D.Bhuvaneswaran

2. United India Insurance Co. Ltd.,
Branch Office, 5-B/11, SBI Upstairs,
Salem Road, Rasipuram,
Namakkal.

.... Respondents/respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the award and Decree passed in M.C.O.P.No. 298 of 2003, on the file of the Motor Accident Claims Tribunal, (Additional District Judge, Fast Track Court No.2), Salem dated 05.11.2007.

For Appellant : Mr.K.Kuppusamy
For respondent-1 : No appearance
For Respondent-2 : Mr.S.Arunkumar

J U D G M E N T

This Appeal is preferred by the appellant/claimant against the award of a sum of Rs.1,77,000/- granted by the Tribunal towards the injuries suffered by him in a motor vehicle accident.

2. The case in brief is as follows:-

On 19.01.2003 at about 05:30 p.m near SND house at Tirchengode, when the appellant herein was travelling in a mini-auto bearing Registration No: TN-04-C-4593, the auto driver lost control over the vehicle and dashed against a wall of the house in the road side. Due to the said impact, the appellant sustained grievous injuries and fractures. The mini-auto also got damaged heavily. Immediately the auto driver admitted the appellant in a private hospital in Salem. The appellant filed a claim petition claiming a compensation of Rs.5,00,000/-. On consideration of the materials and evidence available on record,

the Tribunal has awarded a compensation of Rs.1,77,000/- with interest at the rate of 7.5% p.a from the date of petition. Challenging the award of the Tribunal, the present appeal is filed by the appellant/claimant for enhancement of the compensation.

3. The learned counsel for the appellant submitted that when the fact remained that the appellant spent more money towards medical expenses, the Tribunal has awarded a very meagre compensation. It is also submitted that the compensation awarded by the Tribunal towards the injuries suffered is very low and accordingly prayed for enhancement of compensation.

4. The learned counsel for the second respondent/Insurance Company submitted that the Tribunal has considered the materials and evidence on record in a proper perspective and has awarded the compensation, which is just, fair and reasonable and hence, the same does not require any interference in the hands of this Court.

5. Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6. As far as the quantum of compensation, considering the materials and evidence available on record, the Tribunal fixed the monthly income of the injured at Rs.3,000/- and thereafter taking note of the nature of injuries suffered and the period of treatment from 19.01.2003 to 10.02.2003, the Tribunal has awarded a sum of Rs.9,000/- under the head 'loss of earning during the treatment period.' The Tribunal has considered Ex.P.6/disability certificate issued by the Doctor and has awarded Rs.60,000/- and Rs.5,000/- under the heads 'disability' and 'pain and suffering' respectively. Considering other relevant materials, the Tribunal has awarded Rs.93,000/- Rs.5,000/- and Rs.5,000/- towards Transportation Expenses, Extra Nourishment and attender charges respectively. Thus, the total amount was arrived at Rs.1,77,000/-.

7. On a perusal of the award passed by the Tribunal and considering the nature of injuries sustained by the claimant and also taking note of the disability certificate issued by the Doctor, wherein it has been stated that the injured has suffered disability at 60%, this Court is of the considered view that the amounts awarded towards the heads 'loss of earning during the treatment period', 'disability' and 'pain and suffering' need significant enhancement. It would be appropriate to enhance the amounts awarded towards loss of earning during the treatment period, disability and pain and suffering to Rs.14,000/-, Rs.90,000/- and Rs.15,000/-, instead of Rs.9,000/-, Rs.60,000/- and Rs.5,000/- respectively. The amounts awarded towards other

heads are confirmed. The break up details of the modified compensation are as follows:

Particulars	Amount
Medical Expenses	Rs.93,000/-
Transportation Expenses	Rs.5,000/-
Extra Nourishment	Rs.5,000/-
Disability	Rs.90,000/-
Pain and suffering	Rs.15,000/-
Loss of earning during treatment period	Rs.14,000/-
Total	Rs.2,22,000/-

Thus, the appellant / claimant is entitled to the modified compensation of Rs.2,22,000/- with interest at the rate of 7.5% per annum from the date of petition.

8. In the result, the Civil Miscellaneous Appeal is partly allowed. The second respondent Insurance Company is directed to deposit the modified compensation 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 being made, the appellant / claimant is permitted to withdraw the same on making proper application before the Tribunal. It is made clear that before receiving the copy of the judgment, the claimant/appellant shall pay the necessary Court fee for the enhanced compensation amount. No Costs.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

To

1.The Additional District Judge,
Fast Track Court No.2,Motor Accidents Claims Tribunal, .
Salem.

2.The Section Officer, V.R. Section, High Court, Madras.
+1 CC to Mr.S.Arunkumar, Advocate sr 73359.

C.M.A.No.3980 of 2008

SV(CO)
SP(24/07/2020)