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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.219 of 2017

Saravanan

.. Appellant/Petitioner

Vs.

1.K.Vairamani

2.Shriram General Insurance Company Ltd.,
Head Office,
E-8, RIICO Industrial Area,
Sita Pura, Jaipur,
Rajasthan - 302 022.

.. Respondents/kRespondents

(The 1st respondent remained exparte before the Tribunal,)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 18.11.2013 made in M.C.O.P.No.259 of 2011 on the file of the Motor Accident Claims Tribunal, Additional District Court at Namakkal.

For Appellant : Mr.Ma.P.Thangavel

For R2 : Mr.S.Dhakshnamoorthy

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 18.11.2013 made in M.C.O.P.No.259 of 2011 on the file of the Motor Accident Claims Tribunal, Additional District Court at Namakkal.

2.The appellant is claimant in M.C.O.P.No.259 of 2011 on the file of the Motor Accident Claims Tribunal, Additional District Court at Namakkal. He filed the said claim petition claiming a sum of Rs.8,00,000/- as compensation for the injuries sustained by him in the accident that took place on 15.06.2010. 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 lorry belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.6,30,000/- 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 was aged 35 years and was working as a driver and saw mill labour and was earning a sum of Rs.6,000/- per month at the time of the accident. The Tribunal has erroneously fixed a meagre sum of Rs.5,000/- per month and not granted any amount towards future prospects. Though Doctor certified 50% disability for the appellant, the appellant has suffered 100% disability due to the nature of injuries. The Tribunal ought to have granted compensation for 100% disability and amount awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the appellant has not proved the avocation and income. In view of the same, the amount fixed by the Tribunal is not meagre. Considering, the nature of injuries the Tribunal has reduced the percentage of disability. The Tribunal has awarded compensation by applying multiplier method. The appellant was aged 35 years at the time of the accident. The correct multiplier is '16'. The Tribunal applied multiplier '17' and granted excessive compensation for pain and suffering and extra nourishment. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant as well as 2nd respondent-Insurance Company and perused all the materials available on record.

6.From the materials available on record, it is seen that in the claim petition the appellant has contended that he was working as a driver and saw mill labour and was earning a sum of Rs.6,000/- per month. The appellant has not filed any document to prove the same. In the absence of any material, the Tribunal fixed the monthly income of the appellant at Rs.5,000/- per month. The appellant was aged 35 years at the time of the accident. The Tribunal has not granted any enhancement towards future prospects. The accident is of the year 2010. The notional income fixed by the Tribunal is meagre and the same is fixed at Rs.6,500/- including future prospects. The Tribunal applied multiplier '17' for the age 35. According to the age of the appellant, the correct multiplier is '16'. The amount granted by



the Tribunal is modified to Rs.6,24,000/- (6,500 x 12x 16 x 50/100). The appellant has given first aid at Government Hospital, Namakkal and subsequently, he has taken treatment as in-patient at Ganga Hospital, Coimbatore and underwent surgery. The Tribunal has not awarded any amount towards attendant charges and loss of amenities. A sum of Rs.20,000/- each respectively is granted towards attendant charges and loss of amenities. The amounts granted by the Tribunal under other heads 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.	Loss of income	5,10,000	6,24,000	Enhanced
2.	Pain and suffering	45,000	45,000	Confirmed
3.	Extra nourishment	45,000	45,000	Confirmed
4.	Transportation charges	15,000	15,000	Confirmed
5.	Future medical expenses	15,000	15,000	Confirmed
6.	Attendant charges	-	20,000	Granted
7.	Loss of amenities	-	20,000	Granted
	Total	Rs.6,30,000/-	Rs.7,84,000/-	Enhanced by Rs.1,54,000/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,30,000/- is hereby enhanced to Rs.7,84,000/- 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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Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

mtl

To
1.The Additional District Judge,
Motor Accidents Claims Tribunal,
Namakkal.

copy to

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

+1 cc to Mr.S.Dhakshnamoorthy Advocate sr23117
+1 cc to Mr.Ma.Pa.Thangavel Advocate sr23769

C.M.A.No.219 of 2017

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