

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.4740 of 2019

Ram Manohar Logiya

.. Appellant/Petitioner

Vs.

1.T.Ram

2.United India Insurance Co. Ltd.,
Divisional Office HUB ranga building
Peramanur main road
Peramanur, Salem-636 007.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.10.2019 made in M.C.O.P.No.415 of 2015 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Salem.

For Appellant : Mr.T.S.Arthanareeswaran
For R2 : Mr.J.Chandran

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 22.10.2019 made in M.C.O.P.No.415 of 2015 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Salem.

2.By consent of both the learned counsel appearing for the appellant as well as the 2nd respondent/Insurance Company, the appeal is taken up for final disposal at the time of admission stage itself.

3.The appellant is claimant in M.C.O.P.No.415 of 2015 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Salem. He filed the said claim petition claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 02.03.2015. The Tribunal considering the pleadings, oral and

documentary evidence, held that the accident occurred only due to rash and negligent riding by the rider of the two wheeler belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said two wheeler to pay a sum of Rs.2,20,000/- as compensation to the appellant at the first instance and recover the same from the 1st respondent, owner of the vehicle.

4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant/claimant contended that the appellant was aged 52 years at the time of accident. He was owning and running a passenger auto and was earning a sum of Rs.10,000/- per month. In the accident, the appellant sustained fracture on his right knee with meniscus tears with DM. He took treatment as in-patient in Krishna Hospital, Tiruchengode from 02.03.2015 to 16.03.2015. Due to the injuries, the appellant could not do the work as he was doing earlier, he could not move anywhere without help of others and he is also taking treatment till today. Though the appellant has marked Ex.P7/discharge summary and Ex.P8/medical bills, the Tribunal has awarded only meagre amount towards loss of income, extra nourishment, attendant charges and transportation. The Medical Board examined the appellant and assessed permanent disability of the appellant as 20% and issued disability certificate, which was marked as Ex.C1. The appellant has difficulty in squatting, sitting cross legged, walking and pain on his right leg. The Tribunal has not awarded any amount towards loss of amenities and future medical expenses. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellant has not produced any document to prove his income. In the absence of evidence with regard to monthly income of the appellant, the Tribunal fixed a sum of Rs.5,000/- as monthly income of the appellant, which is not meagre. The appellant has not filed any medical records to prove that he is taking treatment till today and therefore, he is not entitled to any amount towards future medical expenses. The Tribunal after considering the materials available on record, has awarded just compensation, which is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

8. From the materials available on record, it is seen that the appellant has contended that he sustained grievous injuries on his right knee and multiple injuries all over his body. He took treatment as in-patient in the hospital from 02.03.2015 to 16.03.2015. He was earning a sum of Rs.20,000/- per month by driving his own auto. He failed to prove the said contention. In the absence of evidence with regard to monthly income of the appellant, the Tribunal fixed a sum of Rs.5,000/- as monthly income of the appellant and awarded a sum of Rs.15,000/- towards loss of income for a period of three months. The accident is of the year 2015 and the monthly income fixed by the Tribunal is meagre. Considering the nature of injuries sustained by the appellant and the fact that he was an auto driver, he would not have worked atleast for a period of six months. Hence, a sum of Rs.10,000/- is fixed as monthly income of the appellant and a sum of Rs.60,000/- (Rs.10,000/- X 6) is awarded towards loss of income for a period of six months. The amounts awarded by the Tribunal towards transportation, extra nourishment and attendant charges are meagre. Considering the nature of injuries and period of treatment taken by the appellant, this Court enhances the same to Rs.10,000/-, Rs.15,000/- and Rs.15,000/- respectively. Though the appellant has contended that he is now taking treatment for his injuries, he has not produced any medical records to prove the same. Therefore, the appellant is not entitled to any amount towards future medical expenses. The Tribunal has not awarded any amount towards loss of amenities. This Court awards a sum of Rs.25,000/- towards loss of amenities. The amounts awarded by the Tribunal under other heads are just and reasonable and hence 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 or reduced
1.	Medical expenses	1,00,000	1,00,000	Confirmed
2.	Permanent disability	60,000	60,000	Confirmed
3.	Loss of income	15,000	60,000	Enhanced
4.	Pain and suffering	30,000	30,000	Confirmed
5.	Transportation	5,000	10,000	Enhanced

6.	Extra nourishment	5,000	15,000	Enhanced
7.	Attendant charges	5,000	15,000	Enhanced
8.	Loss of amenities	-	25,000	Granted
	Total	2,20,000	3,15,000	Enhanced by Rs.95,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,20,000/- is hereby enhanced to Rs.3,15,000/- 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, at the first instance and recover the same from the 1st respondent. 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.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chief Judicial Magistrate
The Motor Accident Claims Tribunal
Salem.

2. The Section Officer
V.R. Section
High Court, Chennai.

+1 CC to Mr. J. Chandran, Advocate sr 105414

+2 Ccs to Mr. C. Paraneedharan, Advocate sr 105145.

C.M.A.No.4740 of 2019

KK (CO)
SP(10/09/2020)