

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE
C.M.A.No.4027 of 2005

J.Ravikumar ... Appellant/ Petitioner

..Vs..

1.M.Murugan
2.United India Insurance Co. Ltd.,
Motor Third Party Claims Office
No.15, Anna Salai,
Chennai-600 002. ... Respondents/ Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, as against the judgment and decree dated 22.08.2005 made in MACT O.P No.4459 of 2002 on the file of the III Judge, Motor Accidents Claims Tribunal (Small Causes Court), Chennai.

For Appellant : Mr.C.Munusamy

For Respondents : Mr.C.Paranthaman for R2
R1 - Exparte

JUDGMENT

(This Appeal has been taken up for hearing through Video Conferencing)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 22.08.2005 passed by the Motor Accident Claims Tribunal/ III Small Causes Court, Chennai, in M.C.O.P No.4459 of 2002.

2. The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award, has preferred this appeal seeking for enhancement.

3. The Motor Accidents Claim Tribunal, under the impugned award, has awarded a compensation of Rs.1,23,000/- together with interest and costs to the Appellant/claimant

which is detailed hereunder:

Heads	Award Amount (Rs.)
Loss of income during the period of treatment	9,000/-
Transport Charges	2,000/-
Extra Nourishment	3,000/-
Medical Expenses	25,000/-
Pain and suffering by the attender	3,000/-
Damage on face	3,000/-
Pain and suffering by the claimant	8,000/-
Partial & Permanent disability	50,000/-
Loss of future prospects	20,000/-
Total	1,23,000/-

4. The Appellant/claimant has sustained on 25.09.2002 multiple fractures over his chin and jaw, deepest comminuted fracture over frontal bone and head injury besides other injuries all over his body, as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent. He preferred a claim before the Motor Accidents Claims Tribunal seeking compensation for the injuries sustained by him. The Motor Accident Claims Tribunal had directed the respondents to pay the Appellant/claimant, the aforesaid compensation.

5. Before the Tribunal, the Appellant/claimant has filed nine documents which were marked as Ex.P1 to Ex.P9. No oral evidence was adduced by the Appellant/claimant before the Tribunal as seen from the impugned award. On the side of the respondents, neither any document was filed nor any witness examined before the Tribunal.

6. The nature of the injuries sustained by the Appellant/claimant has not been disputed by the respondents as seen from the evidence available on record. The Appellant/claimant was hospitalized for a period of 10 days at Maya Nursing Home as seen from the exhibits P1, P2 and P3. The Appellant/claimant was an Electrician, aged 22

years at the time of the accident. In his claim petition, he has pleaded that he was earning Rs.300/- per day. However, the Tribunal has assessed the monthly income of the Appellant/claimant at Rs.3,000/- since no documentary evidence was produced by him. The Doctor who assessed the disability of the Appellant has fixed his disability at 70%. However, the Tribunal has reduced the same and has assessed the disability at 50%. The disability compensation awarded by the Tribunal as seen from the impugned award is Rs.50,000/- calculated at Rs.1,000/- per percentage of disability.

7. Insofar as the assessment of disability by the Tribunal is concerned, the Tribunal has on its own reduced the disability without any basis. There must be evidence and valid reason for reducing the disability to 50% from 70% assessed by the Doctor. Since no explanation has been given under the impugned award for reducing the disability, this Court retains the disability of the Appellant/claimant at 70% as assessed by the Doctor in his disability certificate which was marked as Ex.P8 before the Tribunal.

8. Insofar as the assessment of disability compensation at Rs.1,000/- per percentage is concerned, the same is a correct assessment since the year of the accident is 2002. However, in view of the modification of the disability from 50% to 70% by this Court, the disability compensation is enhanced to Rs.70,000/- by this Court instead of Rs.50,000/- assessed by the Tribunal.

9. The Appellant/claimant was hospitalized for a period of 10 days which is not disputed by the respondents as seen from the evidence available on record. The Appellant/claimant has sustained injuries all over his body and was an Electrician at the time of the accident. No contra evidence has also been produced by the respondents before the Tribunal to disprove the contention of the Appellant/claimant that he was an Electrician at the time of the accident. The Appellant/claimant has sustained injuries all over his body and has also sustained fractures which would have caused him pain and suffering for a long period of time. However, the Tribunal under the impugned award, has awarded only a sum of Rs.8,000/- as compensation to the Appellant/claimant towards pain and suffering which necessarily has to be enhanced to Rs.30,000/- by this Court.

10. Insofar as the compensation awarded by the Tribunal towards loss of earning during the period of treatment at Rs.9,000/- is concerned, the same is low in the considered

view of this Court. As observed earlier, as an Electrician, the Appellant/claimant would have been unable to work for a long period of time. The Tribunal has assessed the loss of earning during the period of treatment at Rs.9000/- calculated at Rs.3000/- per month for a period of three months which is low. This Court is of the considered view that for at least a period of twenty months, the Appellant/claimant would have been unable to do his work as an Electrician. Accordingly, the compensation towards loss of earning during the period of treatment of the Appellant/claimant is enhanced to Rs.60,000/- instead of Rs.9,000/- awarded by the Tribunal.

11. Insofar as the other heads of the compensation are concerned, the assessment of the compensation under the said heads by the Tribunal is a just compensation and it does not call for any interference by this Court.

12. For the forgoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.1,23,000/- to Rs.2,16,000/- in the following manner:

Heads	Amount awarded by the Tribunal	Award Amount (Rs.)
Loss of earning during the period of treatment	9,000/-	60,000/-
Transport Charges	2,000/-	2,000/-
Extra Nourishment	3,000/-	3,000/-
Medical Expenses	25,000/-	25,000/-
Pain and suffering by attender	3,000/-	3,000/-
Loss of face Fracture	3,000/-	3,000/-
Pain and suffering by the claimant	8,000/-	30,000/-
Permanent disability	50,000/-	70,000/-
Loss of future prospects	20,000/-	20,000/-
Total	1,23,000/-	2,16,000/-

Conclusion:

13. In the result, this appeal is partly allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The second Respondent/Insurance Company is directed to deposit the modified amount i.e, Rs.2,16,000/- along with interest and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.4459 of 2002 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest as per the order of this Court to the Appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.THE III JUDGE, MOTOR ACCIDENTS CLAIMS TRIBUNAL
(SMALL CAUSES COURT), CHENNAI.

2.THE SECTION OFFICER
V.R.SECTION, HIGH COURT OF MADRAS.

+1cc to Mr.C.Paranthaman, Advocate SR.No. 27637

C.M.A.No.4027 of 2005

NMI CO
A.SK(16.04.2021)

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