

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.569 of 2020

V.J.Aravindan

..Appellant/Claimant

Vs.

1.K.M.Sounderrajan

2.United India Insurance Company Ltd.,
104A, Peramanoor Main Road,
Peramanoor, Salem.

..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 09.11.2017 made in M.C.O.P.No.1719 of 2015 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge No.I, Salem.

For Appellant : Mr.A.Sathishkumar

For Respondents : Ms.I.Malar for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the Tribunal in the award dated 09.11.2017 made in M.C.O.P.No.1719 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Salem.

2.By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final disposal at the admission stage itself.

3.The appellant is the claimant in M.C.O.P.No.1719 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Salem. He filed the above said claim petition, claiming a sum of Rs.25,00,000/- as compensation for the injuries sustained by him in the accident that took place on 07.07.2015.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the motorcycle bearing Registration No.TN 37 AP 9769 belonging to the first respondent, insured with the second respondent and directed the respondents jointly and severally to pay a sum of Rs.3,90,844/- as compensation to the appellant.

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

6.The learned counsel appearing for the appellant contended that the appellant was working in a hotel and was earning a sum of Rs.10,000/- per month at the time of the accident. The Tribunal fixed only a meagre sum of Rs.5,000/- per month as notional income of the appellant and awarded a sum of Rs.2,16,000/- towards loss of dependency. The appellant was aged 21 years at the time of the accident and the Tribunal ought to have awarded 40% enhancement towards future prospects. The Tribunal has not awarded any amount towards attendant charges and damages to cloth. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

7.Per contra, Ms.I.Malar, learned counsel appearing for the second respondent-Insurance Company contended that except oral evidence, the appellant has not produced any documents to prove his income. In the absence of any documents with regard to avocation and income, the Tribunal rightly fixed a sum of Rs.5,000/- per month as notional income of the appellant, which is just and reasonable. The amounts awarded by the Tribunal under different heads are not meagre and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent/ Insurance Company and perused the entire materials on record.

9.It is the contention of the appellant that he was aged 21 years at the time of accident and was working in a hotel and was earning a sum of Rs.10,000/- per month. The appellant has not let in any acceptable evidence to substantiate the said contention. In the absence of any evidence with regard to avocation and income of the appellant, the Tribunal fixed a sum of Rs.5,000/- as monthly income of the appellant, adopted multiplier method and awarded a sum of Rs.2,16,000/- ($\text{Rs.5,000/-} \times 18 \times 12 \times 20/100$) towards loss of income. The accident has occurred in the year 2015 and the monthly income fixed by the Tribunal is meagre. Hence, a sum of Rs.9,000/- is fixed as

monthly income of the appellant and by applying the multiplier '18', the compensation awarded by the Tribunal towards loss of income is modified to Rs.3,88,800/- [Rs.9,000/- X 12 X 18 X 20/100]. Since the Tribunal has awarded a consolidated sum towards disability and loss of income altogether, this Court is of the opinion that there is no need to award any amount separately towards disability.

10. According to the appellant, he has taken treatment as an in-patient at CMC Hospital, Kovai. The Tribunal has not awarded any amount towards attendant charges and damage to clothes. Hence, a sum of Rs.20,000/- and Rs.2,000/- are awarded towards attendant charges and damage to clothes respectively. 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
1.	Loss of income	2,16,000/-	3,88,800/-	enhanced
2.	Pain & sufferings Transportation	20,000/-	20,000/-	confirmed
3.	Transportation	10,000/-	10,000/-	confirmed
4.	Medical expenses	1,04,844/-	1,04,844/-	confirmed
5.	Loss of amenities	20,000/-	20,000/-	confirmed
6.	Extra nourishment	20,000/-	20,000/-	confirmed
7.	Attender charges	-	20,000/-	granted
8.	Loss of damage to clothes	-	2,000/-	granted
	Total	Rs.3,90,844/-	Rs.5,85,644/-	enhanced by Rs.1,94,800/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,90,844/- is hereby enhanced to Rs.5,85,644/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay the Court fee, if any on the enhanced amount of compensation. The

respondents are jointly and severally 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 is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Special Subordinate Judge No.I,
Motor Accident Claims Tribunal,
Salem.

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

+2 Ccs to Mr.C. Thangaraju, Advocate sr 14632.
+1 CC to Mrs.I. Malar, Advocate sr 14830.

C.M.A.No.569 of 2020

VBA(CO)
SP(22/04/2021)

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