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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.840 of 2010

(Through Video Conferencing)

P.Selvakumar

... Appellant / Claimant

Vs.

1.G.Kannan

2.United India Insurance Co. Ltd.,
No.38, Anna Salai,
Chennai 600 002.

... Respondents / Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P.No.2219 of 2005 dated 10.09.2009 on the file of the III Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For appellant : Mr.A.Shanmugaraj

For 2nd respondent: Mr.M.Krishnamoorthy

J U D G M E N T

With the consent of the learned counsel for the appellant and the 2nd respondent, this Civil Miscellaneous Appeal is taken up for final hearing.

2. The claimant is the appellant in this Civil Miscellaneous Appeal and is aggrieved by the amount of compensation awarded by the Motor Accidents Claims Tribunal, Chennai vide impugned Judgment and Decree dated 10.09.2009 in M.C.O.P.No.2219 of 2005.



3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.2,42,000/- as compensation together with interest at 9.5% p.a. from the date of the claim petition till the date of deposit, to appellant as against the claim amount of Rs.6,00,000/-. In this appeal, the appellant/claimant seeks for enhancement of compensation for the injuries suffered by him due to the accident.

4. The accident is said to have taken place on 26.08.2004 at about 7.10 a.m while the appellant/claimant was riding the motor cycle bearing registration No.TN-09-AF-1788 along II Avenue from west to east. At the time, an Auto bearing registration No.TN-05-A-8734 belonging to the 1st respondent insured with the 2nd respondent Insurance Company is said to have been driven in a rash and negligent manner by its driver and knocked down the appellant/claimant, as a result of which, the appellant/claimant sustained grievous injuries. The appellant suffered the following injuries due to the accident:-

- i. Blunt injury abdomen
- ii. Spleenectomy and Peritoneal Lavage
- iii. Perinephric Haematoma
- iv. Multiple injuries all over the body.

5. I have considered the arguments advanced by the learned counsel for the appellant and the 2nd respondent Insurance Company. I have also perused the evidence on record.

6. The appellant/claimant sustained the above grievous injuries due to the accident that took place on 26.08.2004. The physician assessed 70% disability for the injury suffered by the appellant. The Tribunal has also accepted the same. However, while awarding the compensation, the Tribunal has awarded lesser amount towards permanent disability at the rate of Rs.1,000/- per percentage, i.e. $70 \times 1000 = 70,000/-$.

7. The amounts awarded towards other conventional heads, except Medical Expenses, also appear to be low. They are also to be enhanced. The Tribunal has not awarded any amounts towards Attender Charges and Loss of Amenities. Therefore, under the heads of Attender Charges and Loss of Amenities, this Court awards sum of Rs.10,000/- and Rs.15,000/- respectively to the



appellant/claimant.

8. Considering the nature of injuries suffered by the appellant/claimant, a sum of Rs.2,42,000/- as compensation awarded by the Tribunal is enhanced to Rs.3,70,000/- as follows:-

Heads	Amount awarded by the Tribunal	Re-quantified amount of this Court	Status Confirmed or Enhanced or Granted or Delected
Loss of earning during the treatment	Rs. 5,000/-	Rs. 26,000/-	Enhanced
Transport Expenses	Rs. 5,000/-	Rs. 10,000/-	Enhanced
Extra Nourishment	Rs. 3,000/-	Rs. 10,000/-	Enhanced
Medical Expenses	Rs.1,54,000/-	Rs.1,54,000/-	Confirmed
Pain and Sufferings	Rs. 5,000/-	Rs. 30,000/-	Enhanced
Permanent Disability	*Rs. 70,000/-	#.Rs.1,05,000/-	Enhanced
Attender Charges	-	Rs. 10,000/-	Granted
Loss of Amenities	-	Rs. 25,000/-	Granted
Total	Rs.2,42,000/-	Rs.3,70,000/-	Enhanced by another sum of Rs.1,28,000/-

* 70 x 1000 = Rs.70,000/-

70 x 1500 = Rs.1,05,000/-

9. The 2nd respondent is therefore directed to deposit the re-quantified amount of compensation of Rs.3,70,000/- together with interest at 9.5% p.a. from the date of claim petition till the date of deposit and costs, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

10. On such deposit, the appellant/claimant is permitted to withdraw the same together with interest and costs, less any



amount already withdrawn, by filing suitable application before the Tribunal.

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No cost.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To: -

The Motor Accidents Claims Tribunal
III Court, Small Causes Court,
Chennai.

C.M.A.No.840 of 2010

BS(CO)
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