

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1916 of 2013

Chandrasekar

... Appellant/Petitioner

Vs.

1.C. Durairaj ...Respondent/1st Respondent
(R1 remained ex-parte before the Tribunal)

2.The New India Assurance Company Limited,
No.68, Purasaiwalkam High Road,
Chennai - 7 ... Respondents/2nd Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree passed in M.A.C.T.O.P.No.159 of 2007 dated 27.02.2012 on the file of the Motor Accidents Claims Tribunal, 6th Small Causes Court, Chennai.

For Appellant : Mr.M.L.Ramesh

For R2 : Mr. G. Udhaya Sankar

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 27.02.2012 made in M.A.C.T.O.P.No.159 of 2007 on the file of the Motor Accidents Claims Tribunal, 6th Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.159 of 2007 on the file of Motor Accidents Claims Tribunal, 6th Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.11,41,000/- as compensation for the injuries sustained by him in the accident that took place on 03.09.2006.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of van belonging to

the 1st respondent and awarded a sum of Rs.2,22,770/- as compensation to the appellant and directed the second respondent to pay the award amount.

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 in the accident, the appellant sustained fracture in Hand Kolor Bone, fracture in Right hand knee and multiple injuries all over the body. He has taken treatment as inpatient from 04.09.2006 to 07.09.2006 at Government Stanley Hospital, Chennai. Thereafter, he took treatment at Sri Kumaran Health Center from 08.12.2006 to 17.12.2006 whereby ORIF with plate osteosynthehss with bone grafting right clavicle under general anesthesia was done on 08.12.2006. But, the Tribunal has not considered the same and failed to award any amounts towards attendant charges and loss of amenities. The amounts awarded by the Tribunal towards pain and suffering, transportation and extra nourishment are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the second respondent/Insurance Company made submissions in support of the award passed by the Tribunal 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 1st and 2nd respondents and perused all the materials available on record.

8. It is the contention of the appellant that at the time of accident, he was earning a sum of Rs.6,000/- per month by working as a Driver. But, the Tribunal fixed only Rs.4,000/- as monthly income of the appellant. The same is meagre. The accident is of the year 2006. The notional income of the appellant is fixed at Rs.5,000/- per month. Due to the injuries and disability, the appellant would not have attended his work atleast for a period of six months. The Tribunal has awarded a sum of Rs.12,000/- (Rs.4,000/- X 3 months) towards loss of income and the same is enhanced to Rs.30,000/- (Rs.5,000/- X 6 months). The amounts awarded by the Tribunal for Transportation and Extra nourishment are meagre. Considering the period of treatment, the amounts awarded towards Transportation and Extra nourishment are enhanced to Rs.7,000/- and 10,000/- respectively. The Tribunal has not awarded any amount towards Attendant charges and loss of amenities. Therefore, the

appellant is entitled to a sum of Rs.7,000/- and Rs.10,000/- towards attendant charges and 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.	Loss of income	12,000	30,000	Enhanced
2.	Transportation	7,000	10,000	Enhanced
3.	Extra nourishment	5,000	10,000	Enhanced
4.	Damage to clothes	1,000	1,000	confirmed
5.	Medical Expenses	77,769.32	77,769.32	confirmed
6.	Pain and suffering	30,000	30,000	confirmed
7.	Disability	90,000	90,000	Confirmed
8.	Loss of amenities	-	10,000	granted
9.	Attendant Charges	-	7,000	granted
	Total	2,22,769 rounded off to 2,22,770/-	2,65,769 rounded off to 2,65,770/-	Enhanced by Rs.43,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,22,770/- is hereby enhanced to Rs.2,75,770/- 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 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 is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
6th Small Causes Court,
Chennai.

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

+1cc to M/s.M.L.Ramesh, Advocate sr.22054

+1cc to Mr.G.Udaya Sankar, Advocate Sr.21955

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