

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2336 of 2012

G.Kathirvelu

... Appellant/Claimant

Vs.

1.S.Mohanraj
(R-1 set Ex-parte before the Tribunal)

2.The Reliance General Insurance Co.Ltd.,
Third Floor,
No-408, Perundurai Road,
Erode-638 001. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.03.2012 made in M.C.O.P.No.250 of 2010 on the file of Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-II, Gobichettipalayam, Erode District.

For Appellant : Mr.S.Kamadevan

For Respondents : Mr.S.Arunkumar for R2.
R1 - Set exparte.

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant seeking enhancement of compensation granted by the Tribunal in the award dated 26.03.2012 made in M.C.O.P.No.250 of 2010 on the file of Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-II, Gobichettipalayam, Erode District.

2.The case of the appellant is that on 10.07.2010 at about 02.15.p.m., the petitioner was travelling in a Motor Cycle bearing Registration No.T.N.36.L.2346. The above said Motor Cycle was driven by one Saravanan East to West along the Kavandappadi to Bhavani road on the extreme left side of the road, while he was proceeding slowly and carefully near By Pass road Bridge, a motor cycle bearing Registration No.T.N56-A-4020 driven by the first respondent with a high speed in a rash and

negligent manner, came in the same direction and hit against the motor cycle from behind. Due to the accident the appellant sustained grievous injuries.

3.The Tribunal, after considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the first respondent. The first respondent is the owner and the second respondent is the insurance company and directed the second respondent-Insurance Company, on behalf of the first respondent, to pay a sum of Rs.25,606/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

4. Heard the rival submissions made on both sides and perused the materials available on record.

5. A perusal of the records shows that the claimant has sustained fractures and injuries all over the body. Dr.A.K.Thambi Raj/PW3 has assessed the partial permanent disability as 35%, after the cross examination the Tribunal has reduced the disability to 10% and awarded a sum of Rs.10,000/- (Rs.1,000/- x 10%) towards disability. Considering the facts and circumstances the said case, the accident occurred in the year 2010. Hence, this Court is inclined to enhance a sum of Rs.30,000/- (Rs.3,000/- x 10%). After considering the medical bills and receipts the Tribunal has rightly awarded a sum of Rs.3,606/- towards medical expenses, which is rounded off as Rs.3,600/-. Considering the nature of injuries sustained by the appellant and the Tribunal has not awarded any amount under the heads of Transportation, Extra Nourishment and Attender Charges and this Court is inclined to award a sum of Rs.5,000/-, Rs3,000/- and Rs.5,000/- respectively. It is seen from records the appellant failed to produce any certificate on behalf of his income. Hence, the Tribunal has not award any amount for the same. But, considering the cost of living, this Court is inclined to awarded a sum of Rs.5,000/- towards loss of income. The enhanced compensation on the various heads is as follows :-

S.No	Heads	Amount
1.	Disability (Rs.3000x10%)	30,000
2.	Pain and sufferings	10,000
3.	Transportation	5,000
4.	Loss of income	5,000
5.	Medical expenses	3,600

6.	Extra Nourishment	3,000
7.	Attender Charges	5,000
	Total	Rs.61,600/-

5. The compensation of Rs.25,606/- is enhanced to Rs.61,600/-. The same is payable with interest at 7.5% per annum from the date of petition till the date of payment and with proportionate cost. The time for payment of amount is eight weeks from the date of receipt of copy of the Judgment and on such deposit of amount, the claimant is permitted to withdraw the entire amount by filing separate cheque application.

6. In the result, the civil miscellaneous appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Additional District Judge,
Fast Track Court-II,
Gobichettipalayam,
Erode District.

2.The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.J.Arun Kumar, Advocate Sr.8682

+1cc to Mr.S.Kamadevan, Advocate Sr.8937

C.M.A.No.2336 of 2012

sr[co]
srg 25/01/2021