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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2635 of 2012

(Through Video Conferencing)

V.Prem @ Premkumar

... Appellant/Petitioner

Vs.

1. K.Sundararajan (set exparte before the Tribunal)

2. United India Insurance Co Ltd.

Represented by its Branch Manager

104-A, Peramanur Main Road,

Salem - 7.

... Respondents/Respondents

(1st respondent was set exparte

Hence Notice in the CMA may be

Dispensed with)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 11.07.2011 made in M.C.O.P.No.86 of 2008, on the file of the Motor Accidents Claims Tribunal, Principal Sub Judge, Salem.

For Appellant : Mr.C.Ramraj for

M.Guruprasad

For Respondents :

For R1 : Set exparte

For R2 : Ms.Malar Ravichandran

JUDGMENT

With consent of both the learned counsel for the appellant and the second respondent, this Civil Miscellaneous Appeal is taken up for final disposal.

2. This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the impugned Judgment and decree dated 11.07.2011 passed by the Motor Accidents Claims Tribunal, Principal Sub Judge, Salem in M.C.O.P.No.86 of 2008.



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3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.80,000/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of deposit, to the appellant/claimant.

4. In the claim petition, it is stated that the appellant/claimant suffered injuries in a motor vehicle accident that took place on 22.07.2007, while he was riding a Bajaj Motor Cycle, when a Minidor bearing registration No. TN-28-Q-4944 drive by its driver in a rash and negligent manner, insured with the 2nd respondent/Insurance Company, hit the appellant/claimant, as a result of which, the appellant/claimant suffered the following injuries:-

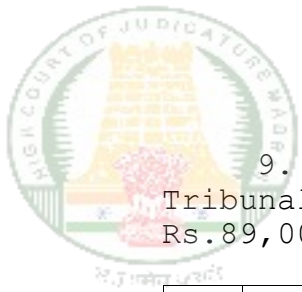
- (i) Supracondylar fracture on right thigh with bone loss (femur)
- (ii) Comminuted fracture on his right leg (tibia)
- (iii) Injuries all over the body

5. Therefore, the appellant/claimant had claimed a compensation of Rs.2,00,000/- (restricted amount) in the claim petition. After considering the evidence on record, the Tribunal has awarded a sum of Rs.80,000/- as compensation. Aggrieved by the same, the appellant/claimant seeks for enhancement of compensation.

6. Heard the learned counsel for the appellant and the respondents. I have also perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

7. It is noticed that the nature of injuries suffered by the appellant/claimant would have made it difficult to work for a period of six months. Considering the fact that, the accident took place in the year 2007, a sum of Rs.39,000/- (Rs.6,500/- x 6) is awarded towards loss of income for the aforesaid period at Rs.6500/- per month.

8. The Tribunal has awarded only a sum of Rs.15,000/- towards pain and suffering. It appears to be slightly on the lower side. Therefore, same is enhanced to Rs.25,000/-. As far as the compensation for continuing disability is concerned, I am of the view that, the Tribunal ought to have considered the disability assessed by P.W.2-Orthopedic Doctor who examined the appellant/claimant cannot be reduced to 25% for the purpose of awarding compensation. Under these circumstances, the compensation awarded towards Continuing disability shall be enhanced to Rs.90,000/- (45xRs.2000/-). The amounts awarded by the Tribunal under other heads are just and reasonable, and therefore they are confirmed.



9. Therefore, the compensation of Rs.80,000/- awarded by the Tribunal is enhanced to Rs.1,69,000/- by adding another sum of Rs.89,000/- under the following heads:-

Sl. No.	Heads of Compensation	Amount Awarded by the Tribunal	Amount awarded by this Court	Award Confirmed or enhanced or granted or reduced
1.	Loss of income	----	Rs.39,000/-	granted
2.	Pain & Sufferings	Rs.15,000/-	Rs.25,000/-	enhanced
3.	Continuing Disability	Rs.50,000/-	Rs.90,000/-	enhanced
4.	Transportation	Rs.5,000/-	Rs.5,000/-	confirmed
5.	Extra Nourishment	Rs.10,000/-	Rs.10,000/-	confirmed
	Total	Rs.80,000/-	Rs.1,69,000/-	Enhanced by Rs.89,000/-

10. The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.1,69,000/- after deducting amount already deposited by it together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited within a period of six weeks from the date of receipt of a copy of this Judgment.

11. On such deposit being made by the 2nd respondent/Insurance Company, the appellant/claimant is permitted to withdraw the same together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

12. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No cost.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar



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To:

1.The Motor Accidents Claims Tribunal,
Principal Sub Judge, Salem.

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

+1cc to Mr.T.Ravichandran, Advocate Sr.34520

C.M.A.No.2635 of 2012

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srg 19/08/2021