

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.262 of 2020

Sathishkumar

.. Appellant/Petitioner

Vs.

1.Kannadasan

2.National Insurance Co., Ltd.,
88F, Bye Pass Road,
Dharmapuri - 636 701.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 17.10.2019 made in M.C.O.P.No.654 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari.

For Appellant : Mr.N.Eswaran

For R2 : Mr.J.Chandran

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 17.10.2019 made in M.C.O.P.No.654 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari.

2.The appellant is claimant in M.C.O.P.No.654 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari. He filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 13.08.2012.

3.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 Bullet motorcycle belonging to the 1st respondent and directed the 2nd

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respondent/Insurance Company being insurer of the said Bullet motorcycle, to pay a sum of Rs.85,000/- as compensation to the appellant at the first instance and then recover the same from the 1st respondent.

4. Not being satisfied with the quantum of compensation 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 contended that he was a college student and was aged 19 years at the time of accident. Due to the accident, the appellant has sustained grievous injuries and fracture on his left elbow's. The appellant took treatment as in-patient in LKM Hospital, Erode from 13.08.2012 to 17.08.2012. He underwent surgery and plate & screws were fixed. The appellant could not do his day-to-day routine work, as he was doing earlier. The Medical Board examined the appellant and assessed 15% of permanent disability. The appellant has some difficulties in pulling, pushing, grasping and weight lifting. The Tribunal has not awarded any compensation towards disability, loss of income, loss of amenities, attendant charges and future medical expenses. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal after considering both oral and documentary evidence in proper perspective, has awarded compensation which is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as 2nd respondent/Insurance Company and perused all the materials available on record.

8. It is the contention of the appellant that in the accident, he has sustained grievous injuries, fracture on his left elbow's and multiple injuries all over the body. He underwent surgery and plate & screws were implanted and fixed. According to the appellant, he has taken treatment as in-patient in LKM Hospital, Erode from 13.08.2012 to 17.08.2012. As per Ex.P9/disability certificate, the appellant sustained 15% disability. The appellant did not examine any Doctor to prove that he suffered fracture and underwent surgery. The Tribunal has not awarded any compensation towards disability. The appellant has marked Ex.P9 disability certificate to prove that he suffered 15% disability. The respondents did not let in any

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evidence to disprove the disability certificate. Therefore, the appellant is entitled to compensation for 15% disability at the rate of Rs.3,000/- per percentage. A sum of Rs.45,000/- (15% x Rs.3,000/-) is awarded towards disability. The appellant was aged 19 years and was a college student at the time of accident. The appellant examined himself as P.W.1 and deposed that he was earning a sum of Rs.10,000/- per month at the time of accident. The appellant failed to prove the avocation and income. In the absence of any material evidence, considering the age and year of accident, the monthly income of the appellant is fixed as Rs.8,000/-. Due to injuries, the appellant could not have worked for atleast three months. The appellant is entitled to a sum of Rs.24,000/- (Rs.8,000/- x 3) as compensation towards loss of income for three months. The amount awarded by the Tribunal towards transport expenses is meagre and hence the same is hereby enhanced to Rs.5,000/-. 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.	Disability	-	45,000	Granted
2.	Medical expenses	30,000	30,000	Confirmed
3.	Transport expenses	3,000	5,000	Enhanced
4.	Extra nourishment	30,000	30,000	Confirmed
5.	Damages to clothes	2,000	2,000	Confirmed
6.	Pain and sufferings	20,000	20,000	Confirmed
7.	Loss of income	-	24,000	Granted
	Total	Rs.85,000/-	Rs.1,56,000/-	Enhanced by - Rs.71,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.85,000/- is hereby enhanced to Rs.1,56,000/- 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 at the first instance and then recover the same from the 1st respondent. 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 (CCC)

//True Copy//

Sub Assistant Registrar

mtl

To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sankari.

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

+1cc to Mr.J.Chandran, Advocate SR.9976

+2cc to Mr.C.Paraneedharan, Advocate SR.10494

C.M.A.No.262 of 2020

PP(CO)
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