

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No. 2961 of 2012

K. Veerappan

.. Appellant / Claimant

Vs.

1.L.P. Natarajan

2.The New India Assurance Co. Ltd.,
No. 4, Moore Street,
Vth Floor,
Chennai 1.

(R1 remained exparte before the Tribunal
and hence, notice dispensed with.) .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 08.10.2007, made in M.C.O.P. No. 4286 of 2004, on the file of the IV Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr. F. Terry Chellaraja
For M/s.M.Malar

For Respondents: Mr. M. Krishnamoorthy (for R2)

J U D G M E N T

This appeal has been filed for enhancement of the compensation granted by the award dated 08.10.2007, made in M.C.O.P. No. 4286 of 2004, on the file of the IV Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

2.The appellant-claimant filed M.C.O.P. No. 4286 of 2004, on the file of the IV Court of Small Causes, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 18.05.2004.

3.The Tribunal considering the pleadings, oral and

documentary evidence, held that the accident occurred due to rash and negligent driving by driver of the Minidor Auto Carriage belonging to 1st respondent and directed the respondents to jointly and severally pay a sum of Rs.1,52,550/- as compensation to the appellant.

4. Not being satisfied with the amounts awarded by the Tribunal in the award dated 08.10.2007, made in M.C.O.P. No. 4286 of 2004, the appellant has come out with the present appeal.

5. Learned counsel appearing for the appellant contended that in the accident, the appellant sustained fractures of left maxilla undisplaced, left 5th and 6th ribs, lower respiratory tract infection, left side minimal pleural effusion, laceration injury all over the body and severe head injuries and has taken treatment as in-patient in Hospital. P.W.2 and P.W.3 - Doctors have assessed that the appellant suffered 30% and 35% disability respectively, totalling to 65% disability. The Tribunal has awarded only Rs.65,000/- towards disability. The Tribunal has not awarded any amount towards attendant charges, future medical expenses, mental agony and loss of amenities. The Tribunal considering the nature of injuries, ought to have awarded more compensation towards extra nourishment, transport expenses, damage to clothes and pain and suffering. At the time of accident, the appellant was working as a PG Assistant Teacher at Government Higher Secondary School and was earning a sum of Rs.20,000/- per month. The Tribunal awarded only a meagre sum of Rs.11,509/- towards loss of income and prayed for enhancement of the compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent contended that the Tribunal considering the evidence of P.W.2 and P.W.3 Doctors and the disability certificates issued by them, awarded compensation under the head disability. The total compensation awarded by the Tribunal is not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

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

8. It is the contention of the appellant that due to the accident, he suffered grievous head injuries and fractures and has taken treatment as in-patient in Hospital from 18.05.2004 to 23.05.2004 and 05.06.2004 to 08.06.2004. P.W.2 and P.W.3-Doctors have assessed that the appellant suffered 30% and 35% disability respectively, totalling to 65% disability. The Tribunal

considering the same, has awarded a sum of Rs.65,000/- towards disability at the rate of Rs.1,000/- per percentage for 65% disability, which is meagre. The accident is of the year 2004. Considering the year of accident and the rise in cost of living, the amount awarded by the Tribunal towards disability is meagre and the same is enhanced to Rs.97,500/- [Rs.1,500/- x 65% disability] at the rate of Rs.1,500/- per percentage for 65% disability. At the time of accident, the appellant was working as a P.G. Assistant Teacher in Government Higher Secondary School and was earning a sum of Rs.20,000/- per month. The appellant has not filed any document to show that due to the injuries sustained in the accident, he lost income during the treatment period. The Tribunal has erroneously granted a sum of Rs.23,018/- towards loss of earning and hence, the same is set aside. The appellant has taken treatment as in-patient in two different spells, for a period of 9 days. The Tribunal has not awarded any amount towards attendant charges. Considering the period of treatment taken, the appellant is entitled to a sum of Rs.5,000/- towards attendant charges. Considering the nature of injuries suffered by the appellant, the amount awarded by the Tribunal towards extra nourishment is meagre and hence, the same is 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.	Loss of earning	23,018/-	-	Set aside
2.	Transportation	5,861/-	5,861/-	Confirmed
3.	Extra nourishment	1,000/-	5,000/-	Enhanced
4.	Attendant charges	-	5,000/-	Granted
5.	Damage to clothes	500/-	500/-	Confirmed
6.	Medical expenses	52,168.45/-	52,168.45/-	Confirmed
7.	Pain and sufferings	5,000/-	5,000/-	Confirmed
8.	Disability	65,000/-	97,500/-	Enhanced

Total	1,52,547.45/- rounded off to 1,52,550/-	1,71,029.45/- rounded off to 1,71,030/-	Enhanced by Rs.18,480/- -
-------	---	---	------------------------------------

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.1,52,550/- is enhanced to Rs.1,71,030/- along with interest and costs. The respondents are jointly and severally directed to deposit the enhanced award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No. 4286 of 2004. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. The appellant is directed to pay the court fee, if any, on the enhanced amount of Rs.18,480/-. It is made clear that the appellant is not entitled for any interest for the delay period on the amount of Rs.18,480/-, enhanced by this Court as per the order of this Court dated 28.09.2012, made in M.P. No. 1 of 2011 in C.M.A. SR. 58538 of 2011. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa

To

The IV Judge,

Court of Small Causes, सतयमेव जयते
(Motor Accident Claims Tribunal),
Chennai.

Copy to:

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

+1 cc to M/s.Krishnamoorthy, Advocate Sr.No. 24257

+1 cc to M/s.M.Malar, Advocate Sr.No. 24401

C.M.A. No. 2961 of 2012

VBA (CO)

RMP (18/01/2021)