

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3089 of 2012

Ravi

... Appellant/Petitioner

Vs.

1.Sokkanathan,

2.The Divisional Manager,
The United India Insurance Co.Ltd.,
No.46, Katpadi Road,
Vellore.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.07.2010 made in M.A.C.T.O.P.No.564 of 2004 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai.

For Appellant : Mr.F.Terry chellaraja

For R1 : Ex-Parte

For R2 : Mr.C.Paranthaman

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 23.07.2010 made in M.A.C.T.O.P.No.564 of 2004 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai.

2.The appellant is claimant in M.A.C.T.O.P.No.564 of 2004 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai. 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 06.08.2002.

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

to the first respondent, insured with the second respondent and directed the second respondent, on behalf of the first respondent, to pay a sum of Rs.80,000/- 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 Mr.F.Terry Chellaraja, learned counsel appearing for the appellant and Mr.C.Paranthaman, learned counsel appearing for the second respondent.

5.A perusal of the records shows that the claimant has sustained fracture and grievous injuries all over the body. Dr.Raveendran (PW2) has assessed the partial permanent disability as 35% and the Tribunal has reduced the same to 20% and awarded a sum of Rs.20,000/- towards permanent disability (Rs.1,000/- per percentage of disability). Considering the nature of injuries and the year of the accident, this Court enhances the percentage of disability to 30% and awards a sum of Rs.30,000/- It is seen from the claim petition that the claimant was a driver and earning a sum of Rs.5,000/- per month and he has not produced any proper evidence to prove the income as required by law. Hence, in the absence of any documentary evidence, the tribunal fixed Rs.5,000/- as income and awarded a sum of Rs.10,000/- for two months towards loss of income, and this Court feels it very meager and the same is enhanced to Rs.30,000/-. The amounts awarded by the Tribunal under other heads are hereby confirmed. The award passed by this Court under various heads is extracted hereunder:

S.No.	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent disability	20,000/-	30,000/-	enhanced
2.	Pain and sufferings	10,000/-	10,000/-	confirmed
3.	Loss of income	10,000/-	30,000/-	enhanced
4.	Transportation, Medical Expenses, Future Medical Expenses & Attender Charges.	40,000/-	40,000/-	confirmed

	Total	Rs.80,000/-	Rs.1,10,000/-	enhanced by Rs.30,000/-
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6.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.80,000/- is hereby enhanced to Rs.1,10,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent 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/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn, if any. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Thiruvannamalai.

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

+1cc ot Mr.C.Paranthaman, Advocate Sr.5686
+1cc to M/s.M.Malar, Advocate Sr.6383

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srg 21/08/2020