

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.2775 OF 2013

A.Mani @ Manivannan

.. Appellant/Petitioner

Vs.

1. S.Ramalingam

2. Reliance General Insurance Co. Ltd.,
No.46, Haddows Road,
Nungambakkam,
Chennai 600 006.

.. Respondents/Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 18.06.2012, made in M.C.O.P. No. 1996 of 2010, on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.F.Terry Chellaraja

For Respondents: Ms.S.Arun Kumar (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 18.06.2012, made in M.C.O.P. No. 1996 of 2010, on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

2.The appellant-claimant filed M.C.O.P. No. 1996 of 2010, on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.8,00,000/- as compensation for the injuries sustained by him in the accident that took place on 24.04.2010.

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 Car belonging to the 1st respondent and directed the 2nd respondent as insurer of the vehicle to pay a sum of Rs.3,91,500/- as compensation to the appellant.

4. Not being satisfied with the amounts awarded by the Tribunal in the award dated 18.06.2012, made in M.C.O.P. No. 1996 of 2010, the appellant has come out with the present appeal.

5. Learned counsel appearing for the appellant contended that the appellant was working as a Coolie and was earning a sum of Rs.6,000/- per month. Due to the accident, the appellant sustained Grade - 1 open distal 3rd shaft of fracture with psilateral undisplaced trochanteric fracture right femur, fracture R/L body of mandible, fracture right detoalveolar segment of maxilla and fracture right zygomatic and external in right femur on 25.04.2010, arch bar wiring done on 27.04.2010 and OR and IF with Reconstruction nail right femur done on 28.04.2010 and laceration all over the body. The appellant proved the same by examining P.W.2 - Doctor, who assessed that the appellant suffered 85% disability and issued Ex.P5 - Disability Certificate to that effect. The Tribunal has granted only meagre amount towards disability at the rate of Rs.2,000/- per percentage. The Tribunal ought to have adopted multiplier method in awarding compensation towards loss of earning capacity. In any event, the total compensation granted by the Tribunal under different heads are meagre and prayed for enhancement of the same.

6. Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering the evidence of P.W.2 Doctor, disability certificate issued by him and the nature of injuries sustained by the appellant, awarded compensation for disability by adopting percentage method. The appellant has not proved that he suffered functional disability and lost earning capacity and hence, he is not entitled for compensation by applying multiplier method. 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 in the accident, he suffered fractures and multiple injuries all over the body and has taken treatment as in-patient in Parvathy Hospital, Chrompet, from 24.04.2010 to 01.05.2010, for a period of 8 days. P.W.2- Doctor has assessed the percentage of disability suffered by the appellant as 85%. The appellant failed to prove that he suffered functional disability and lost earning capacity. Hence, he is not entitled to compensation by

adopting multiplier method. The Tribunal has granted only a sum of Rs.1,70,000/- towards disability at the rate of Rs.2,000/- per percentage for 85% disability. The accident is of the year 2010. Considering the raise in cost of living, the appellant is entitled to compensation towards disability at the rate of Rs.3,000/- per percentage for 85% disability. Hence, the amount awarded by the Tribunal towards disability is enhanced to Rs.2,55,000/- [Rs.3,000/- x 85% disability]. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, they 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 income	36,000/-	36,000/-	Confirmed
2.	Transportation	10,000/-	10,000/-	Confirmed
3.	Extra nourishment	10,000/-	10,000/-	Confirmed
4.	Attendant charges	10,000/-	10,000/-	Confirmed
5.	Damage to clothes	2,000/-	2,000/-	Confirmed
6.	Medical expenses	23,500/-	23,500/-	Confirmed
7.	Loss of amenities of life and mental agony	25,000/-	25,000/-	Confirmed
8.	Pain and suffering	25,000/-	25,000/-	Confirmed
9.	Disability	1,70,000/-	2,55,000/-	Enhanced
10.	Loss of earning power	80,000/-	80,000/-	Confirmed
	Total	3,91,500/-	4,76,500/-	Enhanced by Rs.85,000/-

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.3,91,500/- is enhanced to Rs.4,76,500/- along with interest and costs. The 2nd respondent-Insurance Company is 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. 1996 of 2010. 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.85,000/-. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The III Judge,
Small Causes Court,
(Motor Accident Claims Tribunal),
Chennai.
2. The Section Officer,
V.R Section, High Court, Madras.

+1cc to Ms.S.Arun Kumar, Advocate, S.R.No.23949

+1cc to M/s.M.Malar, Advocate, S.R.No.23443

C.M.A.No.2775 of 2013

LN(CO)
CS/17/09/2020

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