



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2020

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.367 of 2012

Natarajan

...Appellant/Claimant

Vs

1. Sundaravel pandi,
No.1, Dr.Ranga Road,
Mylapore,
Chennai- 600 004.
2. M/s. IFFCO TOKIO General
Insurance Co.Ltd.,
No.145/131, Ground floor,
Nelson Manikam Road,
Metha Nagar,
Chennai 29.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the order made in M.C.O.P.No.3761 of 2007 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai, dated 07.04.2011 and for enhancement of compensation.

For Petitioner : Mr.G.Balachandran

For Respondents : Mr.Rajadurai for M.B.Gopalan for R2
R1 - Ex-parte

J U D G M E N T

The present appeal is filed to enhance the compensation of the award dated 07.04.2011 made in M.C.O.P.No.3761 of 2007 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

2. The appellant herein is the claimant in M.C.O.P.No.3761 of 2007 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai. He filed the above said claim petition claiming a sum of Rs.6,00,000/- as compensation for the



injuries sustained by him in the accident that took place on 04.08.2007.

3. The case of the appellant is that on 04.08.2007 at about 21.00 hours, while the appellant was crossing Sardar Patel Road from south to north and while completing the crossing of road, a motor cycle bearing Regn.No.TN-09-T-8336 was driven by its driver in a rash and negligent manner from west to east and came near the platform and hit against the appellant. As a result, the appellant sustained grievous injuries all over his body.

4. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the rider-cum-owner of the motorcycle belonging to the first respondent and insured with the second respondent and directed the second respondent to pay a sum of Rs.1,63,500/- as compensation to the appellant/claimant on behalf of the first respondent.

5. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

6. Heard the learned counsel appearing for the appellant as well as the second respondent and perused the materials available on record.

7. From the materials on record, it is seen that P.W.3/ Dr.Mathiazhagan has been examined and the disability certificate issued by him is marked as Ex.P8 and has assessed his disability for the fracture of both bones at left leg at 35% and P.W.4/Dr.Saravana Bhavanantham has been examined and issued the disability certificate/Ex.P10 and has assessed his disability for the removal of spleen and abdominal injury at 30%. The Tribunal, by considering the nature of injury and also the evidences of P.W.2 and P.W.3, has fixed the disability at Rs.50% and granted a sum of Rs.1,00,000/- (50 X 2,000), which is meager. The age of the claimant was 19 years and the proper multiplier to be adopted in the instant case is 19 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. Accordingly, this Court grants a sum of Rs.2,28,000/- (2000 x 12 x 19 x 50%) towards "permanent disability". It is seen that the appellant was working as a room boy in Hotel Stay "n" Tour House and earning a sum of Rs.3,000/-. Due to the injuries sustained by him, the Tribunal felt that he would have been prevented from attending his work for a period of six months and awarded a sum of Rs.18,000/- (3000 X 6) towards "loss of income". This Court is inclined to increase the same to Rs.20,000/-. The Tribunal has awarded a sum of Rs.5,000/- towards "Transportation", which is hereby increased to Rs.10,000/-. The



Tribunal has awarded a sum of Rs.500/- towards "damages to clothes and articles", which is hereby enhanced to Rs.1,000/-. The Tribunal has awarded a sum of Rs.5,000/- towards "loss of amenities", which is hereby enhanced to Rs.15,000/-. The Tribunal has not awarded any amount towards "attender charges". This Court is inclined to award a sum of Rs.5,000/- for the same. The amounts awarded by the Tribunal under other heads are 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.	Permanent disability	1,00,000/-	2,28,000/-	enhanced
2.	Pain and Suffering	25,000/-	25,000/-	confirmed
3.	Medical expenses	5,000/-	5,000/-	confirmed
4.	Transportation	5,000/-	10,000/-	enhanced
5.	Extra Nourishment	5,000/-	5,000/-	confirmed
6.	Loss of income	18,000/-	20,000/-	enhanced
7	Damages to Cloths and articles	500/-	1,000/-	enhanced
8	Loss of amenities	5,000/-	15,000/-	enhanced
9	Attendant charges	-	5,000/-	granted
	Total	Rs.1,63,500/-	Rs.3,14,000/-	enhanced by Rs.1,50,500/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,63,500/- is hereby enhanced to Rs.3,14,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent-Insurance Company is directed to deposit the enhanced award amount along with interest and costs now determined by this Court, 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 is permitted to withdraw the enhanced award amount along with interest and costs, less the amount, if any, already withdrawn. No costs.

WEB COPY

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

sbn

To

1. The Motor Accident Claims Tribunal,
IV Court of Small Causes, Madras.
2. The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.M.B.Gopalan, Advocate, S.R.No.16336

+1cc to Mr.T.G.Balachandran, Advocate, S.R.No.14521

C.M.A.No.367 of 2012

GP(CO)
HS(05/08/2021)