

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1867 of 2016

K.Gnanasekaran ... Appellant/ Petitioner

Vs.

1.R.Rajasekaran

2.ICICI Lombard Gen. Ins. Co. Ltd.,
Chottabhai Centre, 2nd Floor,
No.140, Nungambakkam High Road,
Nungambakkam, Chennai - 600 034... Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 30.07.2014 made in M.C.O.P.No.330 of 2013, on the file of Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.K.Varadha Kamaraj
For R2 : Mrs.R.Sreevidhya
R1 : Exprte in lower court

J U D G M E N T

The enhancement of compensation is sought for in the present appeal.

2. The accident occurred on 10.12.2012 at about 13.45 hours at G.S.T. Road, Chengalpet.

3. The learned counsel on behalf of the appellant mainly contended that the Tribunal has granted less compensation towards disability and the Doctors assessed the partial permanent disability as 40% and the Tribunal has fixed the partial permanent disability as 30%. However, the Tribunal has granted a sum of Rs.2,000/- per percentage, which is inadequate. In view of the fact that the claimant was working as Sales Executive and the accident occurred during the year 2012, the Tribunal ought to have granted at least Rs.3,000/- per percentage considering the price index during the relevant point of time.

4. The learned counsel appearing on behalf of the second respondent/Insurance company disputed the contentions by stating that no sufficient proof has been filed to establish the income of the claimant and under those circumstances the Tribunal fixed Rs.2,000/- per percentage and there is no infirmity.

5. This Court is of the considered opinion that the claimant is a young person and was aged about 28 years at the time of accident and he was working as sales executive in Airtel Dish TV. Thus the monthly income of Rs.5,000/- fixed by the Tribunal is inadequate as well as the sum of Rs.2,000/- per percentage fixed also insufficient. Under these two heads this Court is inclined to enhance the compensation and accordingly the appellant/claimant is entitled to get a sum of Rs.3,000/- per percentage and the disability compensation is enhanced from Rs.60,000/- to Rs.90,000/-. So also the compensation granted under the head of loss of income is enhanced from Rs.15,000/- to Rs.30,000/-. Accordingly, the compensation is increased as under:

S.No.	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability (30% x Rs.3,000/-)	60,000/-	90,000/-	Enhanced
2.	Transport to Hospital	5,000/-	5,000/-	Confirmed
3.	Extra Nourishment	10,000/-	10,000/-	Confirmed
4.	Pain and sufferings	25,000/-	25,000/-	Confirmed
5.	Medical Expenses	2,40,000/-	2,40,000/-	Confirmed
6.	Attender Charges	2,000/-	2,000/-	Confirmed
7.	Loss of Income	15,000/-	30,000/-	Enhanced
	Total	3,57,000/-	4,02,000/-	Enhanced to Rs.4,02,000/-

6. Thus the total compensation payable to the appellant/claimant is Rs.4,02,000/-. The second respondent/Insurance Company is directed to deposit the entire award amount including the enhanced amount along with interest at the rate of 7.5% per annum, if not already deposited, within a period of six weeks from the date of receipt of copy of this judgment and on such deposit, the claimant is permitted to withdraw the said amount by filing appropriate application and the payments are to be made only through RTGS.

7. Thus the Judgment and Decree dated 30.07.2014 passed in M.C.O.P.No.330 of 2013 is set aside and C.M.A.No.1867 of 2016 stands allowed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rsi

To

1.The IV Judge,
Court of Small Causes
(Motor Accidents Claims Tribunal),
Chennai.

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

1 cc to Ms.R. Sreevidhya, Advocate, Sr. 23245
1 cc to Mr.K. Varadakamaraj, Advocate, Sr. 22469

C.M.A.No.1867 of 2016

GJ (CO)
kk 15/12



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