

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.NO.2916 OF 2013

Sapapathi

.. Appellant

Vs.

1. The Chairman,
Pavai Polytechnic College,
Salem Road to Namakkal Highway Road,
NH-7, Pavai Nagar,
Pachal Post, Namakkal Taluk and District.
 2. United India Insurance Company Ltd.,
Branch Office,
No.5-B/II, SBI Upstairs,
Salem Road, Rasipuram,
Namakkal-District.
(R1-set ex-parte before the Tribunal)
- ...Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.11.2010 made in M.C.O.P.No.225 of 2007 on the file of Motor Accident Claims Tribunal, Sub Court, Namakkal.

For Appellant : Mr.Ma.P.Thangavel

For R1 : Notice Served - No appearance

For R2 : Mr.N.Vijayaraghavan

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 24.11.2020 made in M.C.O.P.No.225 of 2007 on the file of Motor Accident Claims Tribunal, Sub Court, Namakkal.

2.The appellant is the claimant in M.C.O.P.No.225 of 2007 on the file of Motor Accident Claims Tribunal, Sub Court, Namakkal. 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 03.10.2006.

3.The case of the appellant is that on 03.10.2006 at about 09.00A.M., near Munusavadi Travelers Bangalow in Namakkal to Salem NH-7 Main Road, the appellant was riding a Hero Honda bike bearing Regn. No.TN-28-1037 by the left side of the road from Puduchathiram to Rasipuram. At that time, a bus bearing Regn. No.TN-33-L-2828 came in the opposite direction driven by its driver in a rash and negligent manner and without following the traffic rules suddenly hit against the appellant's bike. Due to the above accident, the appellant was thrown away from the vehicle and sustained multiple fractures and grievous injuries in his left color bone, head and some other injuries all over the body. This accident occurred only due to the rash and negligent driving of the driver of the bus bearing Registration No.TN-33-L-2828.

4.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the lorry and directed the respondents to pay a sum of Rs.92,500/- 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.

5.Heard Mr.Ma.P.Thangavel, learned counsel for the appellant and Mr.N.Vijayaraghavan, learned counsel for the second respondent.

6.A perusal of the records shows that the claimant has sustained fractures and grievous injuries in his left bone of the head and some other injuries all over the body. Dr.M.Sivakumar (PW2) has assessed the partial permanent disability as 45% and the Tribunal has accepted the same, at the rate of Rs.1,000/- per percentage and awarded a sum of Rs.45,000/-. Considering the nature of injuries, this Court is inclined to enhance the same, at the rate of Rs.2,000/- per percentage and awards a sum of Rs.90,000/- (Rs.2,000 X 45) towards "permanent disability". Considering the medical bills and receipts, the Tribunal has awarded a sum of Rs.17,500 towards "medical expenses", which is hereby confirmed. The Tribunal has awarded a sum of Rs.15,000/- under the head of pain and suffering, which is also hereby confirmed. The Tribunal has awarded a sum of Rs.5,000/- under the heads of "Nutrition" and "Transportation", which is very meager. Hence, this Court is inclined to increase the same as Rs.5,000/- and 10,000/- respectively. The Tribunal has awarded a sum of Rs.10,000/- for "loss of amenities" and the same is hereby confirmed. It is seen that the appellant was working as a Electrician and was earning

a sum of Rs.5,000/- per month and he has not let in any material evidence to prove the same. Hence, the Tribunal has not awarded any amount for the same. But, considering the cost of living and the period of treatment, this Court feels that a male could earn a sum of Rs.4,500/- and the same is taken into account and awards a sum of Rs.9,000/- for two months as "loss of income". The Tribunal has not award any amount towards attender charges. This Court is inclined to award a sum of Rs.5,000/- for the same. The amount awarded by the Tribunal under other heads are confirmed hereby. 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.	Disability	45,000/-	90,000/-	enhanced
2.	Pain and Sufferings	15,000/-	15,000/-	confirmed
3.	Loss of amenities	10,000/-	10,000/-	confirmed
4.	Nutrition and transportation	5,000/-	5,000/- 10,000/-	enhanced
5.	Medical Expenses	17,500/-	17,500/-	confirmed
6.	Attender Charges	----	5,000/-	awarded
7.	Loss of income	----	9,000/-	awarded
	Total	Rs.92,500/-	Rs.1,61,500/-	enhanced by Rs.69,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.92,500/- is hereby enhanced to Rs.1,61,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay the necessary Court fee, if any, on the enhanced compensation. The respondents are 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 is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

8.The appellant herein had filed the present appeal with a delay of more than two years. The condone delay petition was ordered by this Court, with a condition that the claimant will not be entitled for interest for the period of delay. Hence, it is made clear the appellant herein is not liable for 7.5% interest for the enhanced award amount during the period from 24.02.2010 to 04.06.2012.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sbn

To

1. Motor Accident Claims Tribunal
Sub Judge, Namakkal.
2. The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.2868

+1cc to Mr.M.B.Gopalan, Advocate, S.R.No.3149

C.M.A.No.2916 of 2013

RLD(CO)
CS/11/01/2021

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