

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.926 of 2015

A.Kanagaraj

... Appellant /Petitioner

Vs.

1.M.N.A.M.Safiullah

(R1 remained exparte before the Tribunal
and hence, his presence is dispensed with)

2.United India Insurance Company Limited

No.1090, A.R.Complex

Poonamallee high road

Chennai-34.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.11.2014 made in M.C.O.P.No.4120 of 2008 on the file of Motor Accident Claims Tribunal, Small Causes Court No.VI, Chennai.

For Appellant : M/s.A.Subadra for Ms.M.Malar

For R2 : Ms.I.Malar

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 07.11.2014 made in M.C.O.P.No.4120 of 2008 on the file of Motor Accident Claims Tribunal, Small Causes Court No.VI, Chennai.

2.The appellant is claimant in M.C.O.P.No.4120 of 2008 on the file of Motor Accident Claims Tribunal, Small Causes Court No.VI, Chennai. He filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 18.11.2007.

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

to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said car to pay a sum of Rs.5,00,000/- as compensation to the appellant.

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

5. The learned counsel appearing for the appellant/claimant contended that the appellant was working as a welder and was earning a sum of Rs.10,000/- per month. Due to the accident, the appellant has suffered fracture of left tibia and fibula and his left leg was shortened by one inch. The appellant could not do the work as he was doing earlier. The Tribunal has not awarded any amount towards future medical expenses and loss of amenities. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal has adopted multiplier method while awarding compensation towards disability. The compensation awarded by the Tribunal is excessive. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent and perused all the materials available on record.

8. It is the contention of the appellant that he was aged 31 years at the time of accident and was earning a sum of Rs.10,000/- per month by working as a welder. The appellant has marked Ex.P4/Welding Association identification card to prove his avocation. Accepting the same, the Tribunal has rightly fixed a sum of Rs.10,000/- as monthly income of the appellant and awarded a sum of Rs.40,000/- (Rs.10,000/- X 4) towards loss of income and hence, the same is not interfered with. P.W.2 and P.W.3/Doctors have assessed the disability of the appellant as 45% and 40% respectively. The Tribunal has reduced the same to 15% and adopted multiplier method for awarding compensation towards loss of earning capacity. Further, the Tribunal has granted 50% enhancement towards future prospects and awarded a sum of Rs.4,32,000/- (Rs.10,000/- + 5000 [Rs.10,000/- X 50%] X 12 X 16 X 15/100) towards loss of future earning capacity, which is excessive. Therefore, the appellant is not entitled to any enhancement.

9. According to the appellant, he has suffered fracture on his both bones M/3 left tibia and fibula of right leg. He took

treatment as in-patient in the hospital from 19.11.2007 to 26.11.2007. He has marked Ex.P3/discharge summary to prove the same. The Tribunal has awarded a sum of Rs.8,000/- and Rs.5,000/- towards extra nourishment and attendant charges respectively, which are meagre. Considering the nature of injuries sustained and the period of treatment taken by the appellant, this Court awards a sum of Rs.10,000/- each towards extra nourishment and attendant charges. Though the appellant has contended that the Tribunal has not awarded any amount towards future medical expenses, he has not produced any document to prove that he requires further treatment. Therefore, the appellant is not entitled to any amount towards future medical expenses. The amounts awarded by the Tribunal under all the other heads are not meagre and hence, the same 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 or reduced
1.	Medical expenses	5,000	5,000	Confirmed
2.	Loss of income	40,000	40,000	Confirmed
3.	Transport to hospital	5,000	5,000	Confirmed
4.	Extra nourishment	8,000	10,000	Enhanced
5.	Attendant charges	5,000	10,000	Enhanced
6.	Damage to clothes	5,000	5,000	Confirmed
7.	Loss of future earning capacity	4,32,000	4,32,000	Confirmed
	Total	5,00,000	5,07,000	Enhanced by Rs.7,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,00,000/- is hereby enhanced to Rs.5,07,000/- 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/Insurance Company 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 if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The VI Judge,
The Motor Accident Claims Tribunal,
Small Causes Court No.VI, Chennai.

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

+1cc to Ms.M.Malar, Advocate Sr.1231
+1cc to Mr.I.Malar, Advocate Sr.755

C.M.A.No.926 of 2015

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