

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3386 of 2013

S.Mohan Kumar

.. Appellant / Claimant

Vs.

1.A.Ananda Pandian
(R1 remained exparte before the Tribunal
and hence, notice to R1 is dispensed with)

2.Reliance General Insurance Company Ltd.
Reliance House VI floor
Regional office, No.6
Haddows road
Nungambakkam, Chennai-600 006. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 26.07.2013 made in M.C.O.P.No.4633 of 2009 on the file of Motor Accident Claims Tribunal, II Judge, Small Causes Court, Chennai.

For Appellant : Mr.K.Suryanarayanan

For R2 : Mr.S.Arunkumar

J U D G M E N T
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The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 26.07.2013 made in M.C.O.P.No.4633 of 2009 on the file of Motor Accident Claims Tribunal, II Judge, Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.4633 of 2009 on the file of Motor Accident Claims Tribunal, II Judge, Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on 04.12.2008.

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 lorry belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said lorry to pay a sum of Rs.13,81,460/- 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.Though the learned counsel appearing for the appellant raised various grounds for enhancement of compensation in the grounds of appeal, at the time of arguments, he restricted his arguments only with regard to grant of compensation towards attendant charges and loss of amenities. The learned counsel contended that the appellant has taken treatment as in-patient in MIOT hospital from 04.12.2008 to 13.01.2009 and underwent surgery on 04.12.2008. The appellant marked the discharge summary as Ex.P3 to prove the same. The Tribunal has not awarded any compensation towards attendant charges and loss of amenities and prayed for grant of compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal after considering all the materials available on record, awarded just compensation. 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/Insurance Company and perused all the materials available on record.

8. It is the contention of the appellant that he suffered compound fracture of both bones of right forearm. He has taken treatment as in-patient in MIOT hospital from 04.12.2008 to 13.01.2009 and underwent surgery on 04.12.2008. The appellant marked the discharge summary as Ex.P3 to prove the same. The Tribunal has not awarded any compensation towards

attendant charges and loss of amenities. Considering the nature of injuries and period of treatment taken by the appellant, a sum of Rs.20,000/- each is awarded towards attendant charges and loss of amenities. The amounts awarded by the Tribunal under all other heads are just and reasonable 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.	Loss of income during treatment period	28,300	28,300	Confirmed
2.	Transportation	10,000	10,000	Confirmed
3.	Extra nourishment	10,000	10,000	Confirmed
4.	Damage to clothes	1,000	1,000	Confirmed
5.	Medical expenses	59,600	59,600	Confirmed
6.	Pain and suffering	50,000	50,000	Confirmed
7.	Loss of earning capacity	12,22,560	12,22,560	Confirmed
8.	Attendant charges	-	20,000	Granted
9.	Loss of amenities	-	20,000	Granted
	Total	13,81,460	14,21,460	Enhanced by Rs.40,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.13,81,460/- is hereby enhanced to Rs.14,21,460/- 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 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 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

//True Copy//

Sub Assistant Registrar

kj

To

1.The II Judge
The Motor Accident Claims Tribunal
Small Causes Court, Chennai.

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

+1 cc to M/s.K.Suryanarayanan, Advocate Sr.No. 23555

C.M.A.No.3386 of 2013

CP(CO)
RMP(05/11/2020)



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