

N THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM :

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3723 of 2013

K.Prabhu

... Appellant/Petitioner

Vs.

1. L.Murugan(separate before the Tribunal)

2. The United India Insurance Co., Ltd.,
Rep by its Branch Manager,
Venkatesware Shopping Complex,
100, South Theradi Street,
Chidambaram Taluk and Town,
Cuddalore District. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in MCOP.No.1239 of 2009 dated 18.10.2011 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Mayiladuthurai.

For Appellant : Mr.Gopi
for M/s.Royan Law Associates
For Respondents : R1 - Set exparte.
Mr.D.Bhaskaran for R2.

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 18.10.2011 made in M.C.O.P.No.239 of 2009 on the file of Motor Accident Claims Tribunal Cum Principal Sub Court, Mayiladuthurai.

2. The case of the appellant is that on 13.03.2009 at about 04.30.p.m., the appellant was travelling in a Cycle from Sembanaar Kovil to Punjai. At that time, the first respondent driven the car bearing registration No.TN31-5042 in a rash and negligent manner and dashed against the appellant. Due to the said impact, the appellant sustained grievous injuries all over the body.

3.The Tribunal, after considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the first respondent. The first respondent is the owner and the second respondent is the insurance company and directed the second respondent/Insurance Company, to pay a sum of Rs.1,09,926/- 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.

4. Heard the rival submissions made on both sides and perused the materials available on record.

5. A perusal of the records shows that the claimant has sustained fractures and injuries all over the body. Dr.Rajasekar/PW2 has assessed the partial permanent disability as 70%, after the cross examination the Tribunal has reduced the disability to 35% and awarded a sum of Rs.70,000/- (Rs.2,000/- x 35%) towards "disability". Considering the nature of injuries sustained by the appellant and the nature of the disablement in vision this Court is inclined to increase the disability as 70% and awarded a sum of Rs.1,40,000/- (Rs.2,000 X 70%) for the same. The Tribunal has awarded a sum of Rs.10,000 towards "Pain and Sufferings" and the same is hereby increased to Rs.20,000/-. The Tribunal has awarded a sum of Rs.10,000/- towards "Extra Nourishment" is hereby confirmed. After considering the medical bills and receipts the Tribunal has rightly awarded a sum of Rs.14,426/- towards "medical expenses", the same is also confirmed. The Tribunal has awarded a sum of Rs.5,500/- for the "attender charges", the same is also hereby confirmed. The Tribunal has not awarded any amount under the head of "loss of amenities" hence, this Court is inclined to award a sum of Rs.20,000/- for the same. The enhanced compensation on the various heads is as follows :-

S.No	Heads	Amount
1.	Disability (Rs.2000x70%)	1,40,000
2.	Pain and sufferings	20,000
3.	Extra Nourishment	10,000
4.	Medical Expenses	14,426
5.	Attender charges	5,500
6.	Loss of amenities	20,000
	Total	Rs.2,09,926/-

6. The compensation of Rs.1,09,926/- is enhanced to Rs.2,09,926/-. The same is payable with interest at 7.5% per annum from the date of petition till the date of payment and with proportionate cost. The time for payment of amount is eight weeks from the date of receipt of copy of the Judgment and on such deposit of amount, the claimant is permitted to withdraw the entire amount by filing separate cheque application.

7. In the result, the civil miscellaneous appeal is partly allowed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

tsh

To

1.Motor Accident Claims Tribunal Cum Principal Sub Court,
Mayiladuthurai.

2.The Section Officer
VR Section high Court, Chennai

+1 cc to Mr.D.Bhaskaran Advocate sr8539
+1 cc to M/s.Royal law Associates sr8695

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