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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.3000 of 2019

Ravindran,
S/o. Nagalingam,
No.25, Modern Line,
9th Street, Old Washermanpet,
Chennai-600 021. ... Appellant / Petitioner

Vs.

1. Thiyagarajan,
S/o. Madheswaran,
No.12, Vadivudai Amman Koil Street,
Manali Pudhu Nagar,
Chennai-600 103.
2. United India Insurance Co., Ltd.,
No.134, Greams Road,
Chennai-600 006. ... Respondents / Respondents

PRAYER:- Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act against the Order and decree in M.C.O.P. No.2427 of 2016, dated 11.09.2018 on the file of the Motor Accident Claims Tribunal (Special Sub-Court No.1, Motor Accident Claims Petitions), Small Causes Court, Chennai.

For Appellant : Mrs.A.Subadra for
M/s.F.Terry Chella Raja

For Respondents : R1 - exparte

Mr.V.J.Vijayaraghavan
for R2



J U D G M E N T

The claimant, not feeling satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Special Sub-Court No.1, Small Causes Court, Chennai in MCOP No.2427 of 2016, has filed the present Civil Miscellaneous Appeal before this Court.

2. The brief facts leading to the filing of this Civil Miscellaneous Appeal is as follows :

On 01.02.2016, at about 06.00 p.m., while the appellant/claimant was crossing the road, near Sathuva gate, a motorcycle bearing Regn. No.TN-18-AE-0822 owned by the 1st respondent, which was insured with the 2nd respondent came in a rash and negligent manner and dashed against the appellant, in which the claimant has sustained grievous injuries. At the time of accident, he was working as a clerk in the private company and receiving the salary of Rs.15,000/- per month. In the said accident, he has suffered a closed fracture in both bone in the right leg and he was admitted in the hospital. He has taken treatment for two months and undergone a surgery. Due to the injuries sustained in the accident, claiming a compensation of Rs.10 lakhs, he has filed the claim petition before the Tribunal.

3. The 1st respondent/owner of the vehicle remained exparte and the second respondent Insurance Company contested the claim petition on the ground that the accident was taken place only due to the rash and negligent driving of the claimant. He has negligently crossed the road without noticing the ongoing vehicles and consequently, the accident was taken place. It has also contested that the compensation sought by the claimant is highly excessive and speculative.

4. Before the tribunal, the Appellant/claimant examined himself as P.W.1 and the Doctor was examined as P.W.2 and marked as many as 16 documents as Ex.P1 to P16. On the side of the respondents, no witness was examined and no document was marked.

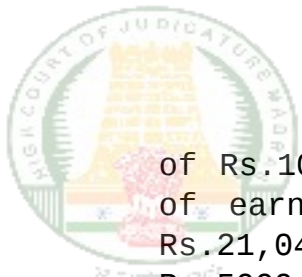
5. The Tribunal, after considering both the oral and documentary evidence, has come to the conclusion that the accident was taken place due the rash and negligent driving of a two wheeler. In respect of quantum of compensation, the Tribunal has taken the disability at 35% and arriving a sum of Rs.3000/-



per percentage, awarded a sum of Rs.45,000/- towards disability. So far as other heads are concerned, the tribunal awarded a sum of Rs.20,000/- towards pain and sufferings, a sum of Rs.10,000/- towards extra nourishment, a sum of Rs.5000/- towards transportation, a sum of Rs.8,480/- towards medical expenses, a sum of Rs.3000/- towards attender charges, a sum of Rs.21,048/- towards loss of earnings and a sum of Rs.15,000/- towards loss of future prospects. Totally, the Tribunal has awarded a sum of Rs.1,27,600/- as compensation. Aggrieved over the same, the claimant is before this Court with this Appeal.

6. I have heard and considered the rival submissions made by learned counsel appearing for appellant as well as 2nd respondent and perused the records.

7. The appellant was working as a clerk in a private company. Due to the road accident, he has suffered a closed fracture in both legs in the right leg and he was admitted in a private hospital for nearly 2 ½ months and also undergone a surgery. In the doctor's opinion, the appellant has suffered partial permanent disability of 35%. The learned counsel appearing for appellant would submit that due to the impact of injury sustained by the appellant, he is not able to walk properly and also not able to discharge his duties as before the accident. But, on considering the report, it could be seen that it is only a closed fracture in both bones and after the accident, he is continuing to discharge his duties. Hence, it cannot be stated that there is a loss of future income to the appellant. However, considering the nature of injury sustained by the appellant, a sum of Rs.4000/- can be granted for each percentage of disability. Considering the evidence of P.W.2 and other medical evidence, wherein the disability is fixed at 35%, which was not seriously challenged by the respondents. Hence, the Tribunal ought not to have fixed the disability at 15% without any reason whatsoever. In the said circumstances, this Court is of the view that the disability assessed by the doctor can be relied upon and a sum of Rs.4000/- can be fixed for per percentage, which comes to Rs.1,40,000/- instead of Rs.45,000/- awarded by the Tribunal. That apart, towards pain and suffering, a sum of Rs.25,000/- is granted instead of Rs.20,000/-, towards extra nourishment a sum of Rs.25,000/- is granted instead of Rs.10,000/-, towards medical expenses, a sum of Rs.9,000/- is granted instead of Rs.8,480/-, towards attender charges, a sum



of Rs.10,000/- is granted instead of Rs.3,000/-, towards of loss of earnings, and a sum of Rs.30,000/- is granted instead of Rs.21,048/-. Apart from that, towards transportation, a sum of Rs.5000/- and towards of loss of future prospects, a sum of Rs.15,000/- awarded by the Tribunal are confirmed. In view of the above, the compensation awarded by the Tribunal is modified as follows :-

Sl. No.	Headings	Amount Awarded by the Tribunal Rs.	Amount awarded by this Court	Award confirmed or enhanced
1	Disability	45,000	1,40,000	enhanced
2	Pain and sufferings	20,000	25,000	enhanced
3	Extra nourishment	10,000	25,000	enhanced
4	Transportation	5000	5000	confirmed
5	Medical expenses	8,480	9,000	enhanced
6	Attender charges	3,000	10,000	enhanced
7	Loss of earnings	21,048	30,000	enhanced
8	Loss of future prospects	15,000	15,000	enhanced
	Total	1,27,528 (rounded to 1,27,600)	2,59,000 (rounded to 2,60,000)	enhanced

Thus, the appellant is entitled to get a sum of Rs.2,59,000/-, which was rounded up as Rs.2,60,000/- instead of Rs.1,27,600/- awarded by the Tribunal.

8. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,27,600/- is hereby enhanced to Rs.2,60,000/- 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



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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(CS-V)

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Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
Special Sub-Court No.1,
Small Causes Court, Chennai.

+1cc to M/s.M.Malar, Advocate, S.R.No.39407

C.M.A.No.3000 of 2019

MG(CO)
SB(31/08/2021)