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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1648 of 2020

Vinoth

... Appellant/Claimant

Vs.

1. Chettinad Hospitals Private Limited,
Rani Seethai Hall,
5th Floor, 603.
Anna Salai, Chennai-600 006.
(Since R1 remained before the Tribunal exparte his
presence may be dispensed with)
2. Oriental Insurance Company Limited,
No.115/116, Prakasam Road,
Chennai-600 118. ... Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 13.11.2019 made in M.A.C.T.O.P.No.1801 of 2014 on the file of the Motor Accident Claims Tribunal, Special Sub Court-2, Motor Accident Claims Petitions, Small Causes Court, Chennai.

For Appellants : Mr.F.Terry Chella Raja

For Respondents : Mr.S.Arunkumar, for R2

J U D G M E N T

Feeling unsatisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Special Sub Court II, Court of Small Causes, Chennai, in MCOP No.1801 of 2014, dated 13.11.2019, the claimant is before this Court with this appeal seeking enhancement of compensation.

2. The case of the claimant in brief reads as follows:-
On 21.10.2013, at about 8.00 a.m., while the appellant/claimant was travelling as a pillion rider in the motorcycle from Nallambakkam to Kandigai near Venkatamangalam, a bus, bearing registration No.TN 01 AL



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2151, belongs to the first respondent, which was insured with the second respondent, came in a rash and negligent manner and dashed against the motor cycle, in which, the claimant sustained serious injuries and he was admitted in the hospital from 21.10.2013 to 25.10.2013 and underwent surgeries for the fracture suffered due to the accident and suffered disability. Hence, claiming compensation of Rs.6,00,000/- the claim petition has been filed.

3. The first respondent remained exparte and the second respondent/Insurance Company contested the claim petition on the ground that the accident has taken place due to the negligent driving of the rider of the two wheeler, for which, the first respondent's vehicle cannot be made liable and the claimant only suffered minor injuries and the compensation claimed by the claimant is highly excessive. Hence, the Insurance Company is not liable to pay the compensation.

4. In order to prove the claim, the claimant examined himself as PW1 and marked as many as 9 documents. On the side of the respondents, neither any witness has been examined nor any documents was marked. The claimant was referred to Medical Board for assessing disability and the disability certificate issued by the Board is marked as Ex.C.1.

5. The Tribunal, after considering the materials available on record, came to a conclusion that the accident has taken place due to the rash and negligent driving of the driver of the first respondent's vehicle and since the Medical Board assessed the disability of the appellant/claimant at 7%, the Tribunal awarded a sum of Rs.21000/- towards the disability. So far as the other pecuniary and non pecuniary heads, the Tribunal awarded a total sum of Rs.70,570/- , rounded to Rs.70,600, which reads as follows:-

Sl. No	Headings	Amount Rs
1	Disability	21,000
2	Pain and sufferings	7,000
3	Transportation charges	2,500
4	Extra Nourishment	5,000
5	Damages to clothes	1,000
6	Attender charges	2,500



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Sl. No	Headings	Amount Rs
7	Loss of income	16,000
8	Medical expenses	8,570
9	Loss of amenities	7,000
	Total	70,570

Not feeling satisfied with the same, the Appellant is before this Court with this Appeal.

6. Heard both sides and perused the materials available on records carefully.

7. The accident has taken place on 21.10.2013 and the claimant suffered a fracture in the 3rd metatarsal left foot. The Medical Board assessed the disability at 7% and the Tribunal accepted the same and awarded a sum of Rs.3000/- for each percentage and granted a sum of Rs.21,000/- towards disability and this Court does not find any illegality in the same. From the evidence it could be seen that the petitioner was admitted in the hospital for 5 days and taken treatment as inpatient and underwent surgery. Hence, he is entitled for a sum of Rs.15,000/- towards pain and sufferings instead of Rs.7000/- awarded by the Tribunal. Towards Extra Nourishment Rs.10000/- is awarded instead of Rs.5000/- awarded by the Tribunal and towards amenities a sum of Rs.10,000/- is awarded instead of Rs.7000/- awarded by the Tribunal, totalling to Rs.86,570, rounded to Rs.87,000/-.

8. Considering all the above circumstances, the award passed by the Tribunal modified as follows :-

Sl. No.	Headings	Amount Awarded by the Tribunal Rs.	Amount awarded by this Court	Award confirmed or reduced
1	Disability	21,000	21,000	confirmed
2	Pain and sufferings	7,000	15,000	enhanced
3	Transportation charges	2,500	2,500	confirmed
4	Extra Nourishment	5,000	10,000	enhanced
5	Damages to clothes	1,000	1,000	confirmed
6	Attender charges	2,500	2,500	confirmed
7	Loss of income	16,000	16,000	confirmed
8	Medical expenses	8,570	8,570	confirmed



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Sl. No.	Headings	Amount Awarded by the Tribunal Rs.	Amount awarded by this Court	Award confirmed or reduced
9	Loss of amenities	7,000	10,000	enhanced
	Total	70,570	86,570	enhanced

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal in M.C.O.P.No.1801 of 2014 is enhanced from Rs.70600/- to Rs.87,000/- with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The second respondent 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 eight 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(CCC)
Dt 09/04/2021

//True Copy//

Sub Assistant Registrar

mrp

To

The Motor Accidents Claims Tribunal,
The Special Sub Court-2,
Small Causes Court, Chennai.

Copy to:
The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Ms.M.Malar, Advocate, S.R.No.38005
+1cc to Mr.S.Arunkumar, Advocate, S.R.No.38014

C.M.A.No.1648 of 2020

LN(CO)
HS(17/08/2021)