

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1489 of 2018

A.Rajesh Kannaa

... Appellant/Petitioner

Vs.

1.P.Thiyagarajan
2.Bharti AXA General Insurance Co. Ltd.,
Metro Plaza, II Floor,
No.162, Anna Salai,
Chennai - 02

(1st respondent ex parte in Lower Court
and Hence notice may be dispensed with)

... Respondents/Respondents

PRAYER : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P.No.4522 of 2011 dated 23.02.2016 on the file of the Motor Accidents Claims Tribunal, Special Sub-Court - I, Chennai.

For Appellant : Mr.A.C.Kumaragurubharan

For Respondents : R1 - Ex parte
Mr.K.Poomalai for R2

JUDGMENT

(Delivered by M.M.SUNDRESH.,J)

This appeal has been preferred by the appellant seeking enhancement. The appellant suffered unstable pelvic fracture, perineal injury, extensive soft tissue injury and other injuries. As a result of which, the Tribunal awarded Rs.1,50,000/- towards the disability apart from awarding compensation towards the loss of future amenities and marriage prospects at Rs.75,000/. In toto, the Tribunal awarded Rs.9,00,279/- as compensation.

2. The learned counsel appearing for the appellant would submit that the appellant is not even able to sit. Due to the injuries suffered, there is a fat loss and, therefore, he is not able to do his normal work. He is only walking with the support of the stick. The Tribunal has awarded Rs.1,50,000/- alone towards the disability and, therefore, appropriate enhancement will have to be given.

3. The learned counsel appearing for the second respondent submitted that the Tribunal, in total, awarded Rs.9,00,279/- as compensation. The Tribunal has rightly considered the other conventional heads in arriving at a just compensation. Hence, the appeal deserves to be dismissed.

4. Though we are not interfering with the other conventional heads awarded by the Tribunal, a sum of Rs.1,50,000/- towards the disability is rather too low. The nature of the injury suffered by the appellant is not in dispute. The records would show that the appellant is not able to work apart from doing his normal activities. He underwent surgeries which could not bring the appellant back to his original position. In such view of the matter, the compensation towards the disability awarded by the Tribunal at Rs.1,50,000/- is enhanced to Rs.4,50,000/-. The total compensation is assessed as under:-

S.No.	Heads	Amount
	Pecuniary Damages	
1	Expenses related to Treatment, Hospitalization and Medicines	Rs.5,07,849/-
2	Loss of earning during treatment	Rs. 59,589/-
3	Expenses towards conveyance	Rs. 2,841/-
4	Extra Nourishment costs	Rs. 15,000/-
5	Attender Charges	Rs. 3,000/-
6	Damages to clothing	Rs. 2,000/-
7	Compensation for disability	Rs.4,50,000/-
	Non-Pecuniary Damages	
8	Pain and sufferings	Rs. 50,000/-
9	Compensation for loss of future amenities and marriage prospectus	Rs. 75,000/-

S.No.	Heads	Amount
10	Loss of Expectation of life	Rs. 35,000/-
	Total	Rs.12,00,279/-
	Rounded off Total	Rs.12,01,000/-

5. Accordingly, we fix the total compensation at Rs.12,00,279/- which we are rounding off to Rs.12,01,000/- with the interest at 7.5% from the date of filing of the petition till the date of realization.

6. The second respondent/Insurance Company is directed to deposit the enhanced compensation as awarded by this Court along with proportionate interest, less the amount, if any, already deposited to the credit of M.C.O.P.No.4522 of 2011 on the file of the Motor Accidents Claims Tribunal, Special Sub-Court - I, Chennai within a period of six weeks from the date of receipt of a copy of the judgment.

7. We also direct the Tribunal to transfer the amount deposited by way of RTGS to the bank account of the claimant within a period of three weeks from the date of deposit of the award amount. On such transfer, the claimant is entitled to withdraw the same.

8. In view of the above, the Civil Miscellaneous Appeal stands allowed in part. No Costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ssm

To

1.The Motor Accidents Claims Tribunal,
Special Sub-Court - I,
Chennai.

2.The Section officer
VR Section
High Court, Madras 104.

+1 CC to Mr.K.Poomalai, Advocate sr 8199

+1 Cc to Mr.A.C.Kumaragurubharan, Advocate sr 8174

C.M.A.No.1489 of 2018

NMI (CO)
SP(05/08/2020)