

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.902 of 2014

G.Manikandan

...Appellant / Petitioner

vs.

1.P.Krishnamurthy(R1 set exparte in Tribunal)

2.United India Insurance Co. Ltd.,

Silingi Building,

No.134, Greams Road,

Chennai - 6.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.07.2012 in M.C.O.P.No.3946 of 2009 on the file of the MotorAccident Claims Tribunal, (VI-th Judge, Court of Small Causes) Chennai.

For Appellant : Mr.S.Gangaram Prasad

For Respondents : R1 - exparte

Mr.S.Arun Kumar for R2

JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned Award dated 06.07.2012 passed by the Motor Accidnt Claims Tribunal (VI-th Judge, Court of Small Causes) Chennai in MCOP.No.3946 of 2009.

2.Heard Mr.S.Gangaram Prasad, learned counsel for the Appellant and Mr.S.Arun Kumar, learned counsel for the second respondent. The first respondent has remained exparte both before the Tribunal as well as before this Court.

3.The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal has filed this appeal seeking enhancement.

4.The details of the compensation awarded by the Tribunal

under the impugned Award are as follows:

Loss of income for three months at the rate of Rs.4,500/- p.m.	-	Rs.13,500/-
Transportation	-	Rs.10,000/-
Extra nourishment	-	Rs.7,000/-
Medical expenses	-	Rs.22,523/-
Damage to clothes	-	Rs.500/-
Attender charges	-	Rs.4,000/-
Pain and suffering	-	Rs.40,000/-
Disability of 45% at Rs.2,000/- per percentage	-	Rs.90,000/-

Total		Rs.1,87,523/-

5.The adverse finding of the negligence as against the driver of the insured vehicle has now attained finality since no appeal has been filed by the respondents against the said finding. The only question that arises for consideration in this appeal is whether the Appellant/claimant is entitled for enhancement of compensation or not.

6.Before the Tribunal, the Appellant/claimant has filed 11 documents which were marked as Exs.P1 to P11 and two witnesses were examined on his side namely, the Appellant/claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the respondents, neither any document was filed nor any witness examined before the Tribunal.

7.The Appellant/claimant sustained multiple fractures in his right leg and bruises and laceration all over his body. The Doctor who was examined as PW2 has assessed the disability of the Appellant/claimant at 45%. The Tribunal has awarded Rs.90,000/- as disability compensation calculated at the rate of Rs.2,000/- per percentage of disability.

8.This Court after giving due consideration to the avocation of the Appellant/claimant who was a load man and the year of the accident is of the opinion that the disability compensation awarded by the Tribunal in favour of the Appellant/claimant is low. In the considered view of this Court, the disability compensation will have to be calculated at Rs.3,000/- per percentage of disability instead of Rs.2,000/- per percentage of disability fixed by the Tribunal. Accordingly, for 45% disability suffered by the Appellant/claimant, the disability compensation is assessed by this Court is Rs.1,35,000/- instead of Rs.90,000/- fixed by the Tribunal.

9.This Court has also examined the quantum of compensation awarded by the Tribunal under various other heads. Insofar as the compensation awarded by the Tribunal under the heads

transportation cost, medical expenses and pain and suffering are concerned, the same is a just compensation and does not call for any interference by this Court.

10.The monthly income of the Appellant/claimant assessed by the Tribunal at Rs.4,500/- is low and considering the year of the accident and his avocation, it has to be enhanced to Rs.6,000/-.

11.The compensation awarded under the head Loss of income during the period of treatment assessed by the Tribunal was Rs.13,500 calculated for a period of three months at Rs.4,500 per month is low in the considered view of this Court. It has to be enhanced to Rs.36,000/- calculated for a period of 6 months at Rs.6,000/- per month.

12.Insofar as other heads also namely extra nourishment charges, damage to clothing and attender charges are concerned, this Court is of the considered view that the compensation awarded by the Tribunal is low and it has to be necessarily enhanced to Rs.10,000/-, Rs.1,000/- and Rs.10,000/- respectively.

13.The Appellant/claimant has sustained multiple fractures and he was hospitalized for a total period of 40 days as seen from the discharge summaries Exs.P3, P4 and P5 which have also not been disputed by the respondents before the Tribunal. Since the Appellant was hospitalized for a long period of time, the compensation awarded has to be enhanced by this Court under the heads namely (a)loss of income during the period of treatment, (b)extra nourishment charges, (c)attender charges and (d)damage to clothing and articles.

14.Accordingly, this Court enhances from Rs.1,87,523/- to Rs.3,09,523/- in the following manner.

Loss of income for six months	
at the rate of Rs.6,000/- p.m.	- Rs.36,000/-
Transportation	- Rs.10,000/-
Extra nourishment	- Rs.10,000/-
Medical expenses	- Rs.32,523/-
(inclusive of future medical exp.)	
Loss of amenities to life	- Rs.25,000/-
Damage to clothes	- Rs.1,000/-
Attender charges	- Rs.10,000/-
Pain and suffering	- Rs.50,000/-
Permanent disability	- Rs.1,35,000/-

Total	Rs.3,09,523/-

15.The respondents 1 and 2 are directed to deposit the modified award amount of Rs.3,09,523/- together with interest at

the rate of 7.5% per annum from the date of claim till the date of realisation, after deducting the amount already deposited if any, to the credit of MCOP No.3946 of 2009 on the file of the Motor Accident Claims Tribunal, (VI-th Judge, Court of Small Causes) Chennai, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant /claimant, through RTGS, within a period of two weeks thereafter. The requisite Court fee, if any shall be paid by the appellant before receiving the copy of this Judgment. No costs.

16. In the result, the appeal is partly allowed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

pam

To

- 1.The Motor Accident Claims Tribunal,
(VI Judge, Court of Small Causes), Chennai.
- 2.The Section Officer,
Vernacular Section,
Madras High Court.

+lcc to Mr.S. Arun kumar, Advocate, sr no.26542

RSV(CO)
RMP (02/03/2021)

C.M.A.No.902 of 2014

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