

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2587 of 2017

P.Dhanraj

.. Appellant/Claimant

Vs.

1.K.Kamaraj

2.The Branch Manager,
TATA AIG General Insurance Co., Ltd.,
Claims Department, 2nd Floor,
Samson Towers,
403, L, Pantheon Road,
Egmore, Chennai 600 008. .. Respondents/Respondents
(1st respondent remained exparte before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 27.06.2017 made in M.C.O.P.No.3305 of 2014 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.R.Nalliyappan

For Respondents: M/s.C.Harini for
Mr.N.Vijayaraghavan for R2

R1 : Exparte in the Tribunal

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 27.06.2017 made in M.C.O.P.No.3305 of 2014 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

2.The appellant is the claimant in M.C.O.P.No.3305 of 2014 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai. He filed the above said claim petition, claiming a sum of Rs.8,00,000/- as compensation for the injuries sustained by him in the accident that took place on 10.05.2014.

3.The Tribunal considering the pleadings, oral and

documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the JCB belonging to the first respondent and directed the second respondent, as insurer of the vehicle to pay a sum of Rs.2,59,100/- as compensation to the appellant.

4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. Learned counsel appearing for the appellant contended that the appellant is a medical representative and was earning a sum of Rs.28,000/- per month. In the accident, he suffered fracture over the right foot, right femur and shortening of right leg and it is very difficult to walk without the assistance of walker. Further, due to the accident and the injuries suffered, the appellant could not do the work as he was doing earlier. The Tribunal accepting the disability certificate issued by the Medical Board, ought to have adopted multiplier method in granting compensation. The Tribunal failed to award any amount towards loss of amenities. The amounts granted by the Tribunal under different heads are meagre and prayed for enhancement of the compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal, considering the fact that the injuries sustained by the appellant in the accident did not affect his earning capacity, has rightly held that the appellant is not entitled for compensation by applying multiplier method. The amounts awarded under different heads are not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent-Insurance Company and perused the entire materials on record.

8. It is the contention of the appellant that due to the accident, he suffered multiple injuries all over the body. The Medical Board has assessed the disability of the appellant at 30% and Ex.P14/disability certificate was marked to prove the same. The appellant has not proved that he suffered functional disability. In view of the same, the appellant is not entitled to compensation by adopting multiplier method. The appellant has taken treatment as in-patient in B.M.Hospital from 11.05.2014 to 23.05.2014 and again he was admitted in M.N.Orthopaedic Hospital from 08.11.2014 to 13.11.2014. The Tribunal has granted only a meager sum of Rs.3,800/- towards attendant charges. Considering the period of treatment taken by the appellant for merely 25

days, a sum of Rs.25,000/- is awarded towards attendant charges. The amounts awarded by the Tribunal towards extra nourishment, transport to hospital, damages to clothes, future medical expenses and loss of amenities are meagre. Hence, the same are hereby enhanced to Rs.25,000/-, Rs.15,000/-, Rs.3,000/-, Rs.10,000/- and Rs.25,000/- respectively. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	90,000/-	90,000/-	Confirmed
2.	Pain & sufferings	30,000/-	30,000/-	Confirmed
3.	Extra nourishment	3,000/-	25,000/-	Enhanced
4.	Transport to hospital	5,000/-	15,000/-	Enhanced
5.	Damages to clothes	750/-	3,000/-	Enhanced
6.	Attendant charges	3,800/-	25,000/-	Enhanced
7.	Medical expenses	33,507/-	33,507/-	Confirmed
8.	Future medical expenses	3,000/-	10,000/-	Enhanced
9.	Loss of income	87,000/-	87,000/-	Confirmed
10.	Loss of amenities	3,000/-	25,000/-	Enhanced
	Total	Rs.2,59,057/-	Rs.3,43,507/-	Enhanced by Rs.84,450/-
	Rounded off to	Rs.2,59,100/-	Rs.3,43,500/-	

9. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,59,100/- is hereby enhanced to Rs.3,43,500/- 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 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/ claimant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vr

To

- 1.The IV Small Causes Court,
Motor Accident Claims Tribunal,
Chennai.
- 2.The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No. 4888

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No. 3787

C.M.A.No.2587 of 2017

SSI (CO)
GN (25/03/2021)

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