

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.285 of 2017

Mohanasundaram

.. Appellant/Petitioner

Vs.

1.R.Arun

2.P.Manoj

3.United India Insurance Company Ltd.,
Post Box No.34,
C.G. Complex,
139, Kumaran Road,
Tiruppur.

... Respondents/Respondents

(1st and 2nd respondents were set exparte
Hence Notice in the CMA may be dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.03.2014 made in M.C.O.P.No.187 of 2011 on the file of Motor Accident Claims Tribunal, Sub Court, Perundurai.

For Appellant : Mr.C.Ramaraj
for Mr.M.Guruprasad

For R3 : Ms.I.Malar

R1 & R2 : Set Exparte before Tribunal

JUDGMENT

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 22.03.2014 made in M.C.O.P.No.187 of 2011 on the file of Motor Accident Claims Tribunal, Sub Court, Perundurai.

2.The appellant is claimant in M.C.O.P.No.187 of 2011 on the file of Motor Accident Claims Tribunal, Sub Court, Perundurai. He filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 16.05.2011.

3. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the 1st respondent/driver of the Tavera Car belonging to the 2nd respondent, insured with the 3rd respondent/Insurance Company and directed the respondents to jointly and severally pay a sum of Rs.1,10,000/- as compensation to the appellant.

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

5.The learned counsel appearing for the appellant/claimant contended that the appellant has sustained grievous injury in the accident. He took treatment as in-patient in hospital for one month. P.W.4/Doctor has assessed the disability of the appellant as 20%. The Tribunal ought to have adopted multiplier method while awarding compensation towards disability. Due to the injuries, he could not continue his work as he was doing earlier. The Tribunal has not awarded any compensation towards future medical expenses. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the 3rd respondent/Insurance Company contended that the Tribunal after considering the materials available on record, has awarded just compensation. The appellant has not made out any case for enhancement of 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 3rd respondent/Insurance Company and perused all the materials available on record.

8.It is the contention of the appellant that he sustained fractures and multiple injuries over his body. P.W.4/Dr.K.Periyasamy has assessed the disability of the appellant as 20%. The Tribunal has accepted the same and awarded only a sum of Rs.40,000/- (Rs.2,000/- x 20%) towards disability at the rate of Rs.2,000/- per percentage of disability. The accident is of the year 2011. The appellant is entitled to a sum of Rs.60,000/- towards disability (Rs.3,000/- x 20%) at the rate

of Rs.3,000/- per percentage of disability. The appellant has not proved that he suffered functional disability and therefore, he is not entitled to compensation towards disability by adopting multiplier method. The appellant has taken treatment as in-patient in hospital for one month. The amounts awarded by the Tribunal towards pain & suffering, extra nourishment, attendant charges and transportation charges are meagre. Considering the nature of injuries and period of treatment taken by the appellant, a sum of Rs.30,000/-, Rs.20,000/-, Rs.30,000/- and Rs.10,000/- are awarded towards pain & suffering, extra nourishment, attendant charges and transportation charges. The amount awarded by the Tribunal towards medical expenses is just and reasonable and hence the same is hereby 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 or reduced
1.	Disability	40,000	60,000	Enhanced
2.	Pain and sufferings	20,000	30,000	Enhanced
3.	Extra nourishment	10,000	20,000	Enhanced
4.	Attendant charges	5,000	30,000	Enhanced
5.	Transportation charges	5,000	10,000	Enhanced
6.	Medical expenses	30,000	30,000	Confirmed
	Total	Rs.1,10,000/-	Rs.1,80,000/-	Enhanced by Rs.70,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,10,000/- is hereby enhanced to Rs.1,80,000/- 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. It is made clear that the appellant shall not be entitled for any interest for the delay period on the amount of Rs.70,000/- enhanced by this Court as per the order of this Court dated 12.01.2017 made in C.M.P.No.10083 of 2016 in C.M.A.SR.No.44548 of 2016. The respondents are jointly and severally 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. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

mtl

To

1. The Subordinate Judge,
The Motor Accident Claims Tribunal
Perundurai.

2. The Section Officer
V.R. Section
High Court, Chennai.

+1cc to Mr.M.Guruprasad, Advocate SR.No.6071

+1cc to Mr.T.Ravichandran, Advocate SR.No.5790

C.M.A.No.285 of 2017

RSJ (CO)
GMY (23/11/2020)

सत्यमेव जयते

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