

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3371 of 2017

K.Sankar

.. Appellant/Claimant

Vs.

1.M/s. Inland Road Transport Pvt. Ltd.,
No.24 Pedariar Koil Street,
Seven Wells, Chennai-1.

2.The Oriental Insurance company Ltd.,
New No.216, Old No.15, Prakasam Salai,
Broadway, Chennai-108. .. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.12.2014 made in M.C.O.P.No.2286 of 2011 on the file of the Motor Accidents Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : M/s.Ramya V. Rao
for M/s. A.N. Viswanatha Rao

For R2 : Mr.K.Vinod
for M/s.Elveera Ravindran

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 12.12.2014 made in M.C.O.P.No.2286 of 2011 on the file of the Motor Accidents Claims Tribunal, III Small Causes Court, Chennai.

2. The appellant is the claimant in M.C.O.P.No.2286 of 2011 on the file of the Motor Accidents Claims Tribunal, III Small Causes Court, Chennai. 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 12.06.2011.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred only due

to rash and negligent driving by the driver of the motorcycle belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said motorcycle to pay a sum of Rs.1,35,500/- 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. The learned counsel appearing for the appellant contended that the appellant was working as a book binder and was earning a sum of Rs.6000/- per month. In the accident, he sustained blunt injury in the abdomen and his spleen was removed. He has taken treatment as in-patient for 15 days and due to the injuries, he could not continue his work as he was doing earlier. P.W.2/Doctor has assessed the disability of the appellant as 30%, but the Tribunal reduced the disability to 25% and awarded only a sum of Rs.50,000/- by fixing Rs.2,000/- per percentage for disability. 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 2nd 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 2nd respondent/Insurance Company and perused all the materials available on record.

8. It is the contention of the appellant that in the accident, he sustained grievous injuries, abrasion on right elbow, abrasion over anterior aspect of left leg and blunt injury in the abdomen with splenic laceration and has taken treatment as in-patient in Government Stanley Hospital, Chennai from 12.06.2011 to 26.06.2011. P.W.2-Doctor has assessed the disability of the appellant as 30%. The respondents did not let in any evidence to disprove the evidence of P.W.2 - Doctor and disability certificate marked as Ex.P.12. The 2nd respondent has not let in any evidence to disprove the evidence of P.W.2-Doctor and Ex.P.12-disability certificate. The Tribunal reduced the disability to 25% on the ground that the percentage of disability assessed by the Doctor is on the higher side. The

reason given by the Tribunal for reducing the percentage of disability is not valid. The appellant is entitled to compensation towards disability for 30% disability as there is no contra evidence. Hence, the amount granted by the Tribunal towards disability is enhanced to Rs.90,000/- (Rs.3,000/- x 30%).

9. According to the appellant, he was aged 20 years at the time of accident and was working as a book binder and was earning a sum of Rs.6000/- per month. The appellant has not produced any document to substantiate the said contention. In the absence of any material evidence to prove the avocation and income of the appellant, the Tribunal without fixing the monthly income awarded a sum of Rs.25,000/- towards loss of income which is meagre. The accident is of the year 2011. Considering the nature of work and year of accident, a sum of Rs.9,000/- per month is fixed as notional income of the appellant. Due to the injuries sustained by the appellant in the accident, he would not have attended his work atleast for a period of six months. Therefore, the appellant is entitled to a sum of Rs.54,000/- (Rs.9,000/- X 6) towards loss of income for six months. The appellant has taken treatment as in-patient in Government Stanley Hospital, Chennai from 12.06.2011 to 26.06.2011. The amounts awarded by the Tribunal towards transport to hospital, extra nourishment, damages to clothing, attendant charges and loss of amenities are meagre. Considering the period of treatment and nature of injuries sustained by the appellant, the amounts awarded by the Tribunal towards transport to hospital, extra nourishment, damages to clothing, attendant charges and loss of amenities are enhanced to Rs.10,000/-, Rs.15,000/-, Rs.1,000/-, Rs.15,000/- and Rs.10,000/- respectively. The amounts awarded by the Tribunal under other heads are just and reasonable and hence the same are 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
1.	Loss of Income	25,000/-	54,000/-	Enhanced
2.	Transport	5,000/-	10,000/-	Enhanced
3.	Extra Nourishment	10,000/-	15,000/-	Enhanced
4.	Damage to cloth	500/-	1,000/-	Enhanced
5	Medical Expenses	5,000/-	5,000/-	Confirmed
6	Attendant Charges	5,000/-	15,000/-	Enhanced

7	Loss of amenities	5,000/-	10,000/-	Enhanced
8	Pain and sufferings	30,000/-	30,000/-	Confirmed
9	Disability	50,000/-	90,000/-	Enhanced
	Total	Rs.1,35,500/-	Rs.2,30,000/-	Enhanced by Rs.94,500/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,35,500/- is hereby enhanced to Rs.2,30,000/- 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. The 2nd respondent/Insurance Company 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 to the credit of M.C.O.P.No.2286 of 2011. 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 by filing necessary petition before the Tribunal. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsn

To

1.The III Judge,
The Motor Accident Claims Tribunal
Small Causes Court, Chennai.

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

1 cc to Mrs. Elveera Ravindran, Advocate, Sr. 10792
1 cc to MR.A.N. Viswanatha Rao, Advocate, Sr. 11155

C.M.A.No.3371 of 2017

VBA (CO)
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