

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.493 of 2017

R.Imayavaramban

.. Appellant /Petitioner

Vs.

1. D.Manikandan

2. ICICI Lombard General Insurance Co.Ltd.,
Chottabhai Centre, No.140, II & III Floor,
Nungambakkam High Road, Chennai - 34.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 10.02.2014 made in M.C.O.P.No.252 of 2011, on the file of the Motor Accidents Claims Tribunal, (IV Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj
For R1 : Exparte
For R2 : M/s. R.Sree Vidhya

J U D G M E N T

Being dissatisfied with the quantum of compensation awarded by the Tribunal, in and by award dated 10.02.2014 made in MCOP.No.252 of 2011, the appellant/claimant has filed the present Civil Miscellaneous Appeal.

2.According to the appellant/claimant, on 05.04.2010 at about 22.30 hours, he was travelling as a pillion rider in the motorcycle bearing Registration No.TN 05 Z 2281 on the Thiruvottriyur High Road, near Singapore Complex, Washermanpet, Chennai. At that time, the Trailor lorry bearing Registration No.TN 47 E 6036 belonging to the first respondent and insured with the second respondent insurance company, came in a rash and negligent manner and hit the motorcycle from behind. As a result of the same, the appellant / claimant sustained grievous injuries. Stating that the accident had occurred due to the rash and negligent driving of the driver of the lorry, he filed a claim petition, claiming a compensation of Rs.6,50,000/-. The

Tribunal, after considering the oral and documentary evidence available on record, awarded a compensation of Rs.1,98,150/- with interest at 7.5% per annum from the date of petition. Aggrieved over the quantum of compensation so awarded, the appellant is before this Court with the present appeal seeking enhancement of the same.

3.The learned counsel for the appellant/claimant has submitted that the Tribunal has awarded a lesser sum of Rs.30,000/- for 45% permanent disability. The learned counsel has further submitted that the amounts awarded under other heads are meagre and the same have also to be enhanced substantially.

4.Per contra, the learned counsel for the second respondent/ insurance company has submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The appellant/ claimant himself examined as P.W.1. He was aged about 22 years and studying Bachelor of Law final year. He further stated in his evidence that in the accident, he sustained crush injury poplital fossa right thigh and grievous injuries all over the body. The doctor, who treated the claimant, was examined as P.W.2 and as per his deposition, the appellant/claimant sustained 45% permanent disability. Ex.P11 is the disability certificate issued by him. Ex.P10 is the X-Ray. After considering the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.60,000/- by fixing Rs.2,000/- per percentage for 30% permanent disability, under the head "Disability". Even though the Doctor fixed 45% disability, the Tribunal reduced the same to 30%. Considering the facts and circumstances of the case, this Court is of the view that fixing 40% disability and awarding a sum of Rs.3,000/- per percentage of disability would be proper. If that is done, the amount towards disability works out to Rs.1,20,000/- and accordingly it is modified. The Tribunal has awarded Rs.83,650/- towards medical expenses as per Ex.P8 medical bills, which are the actual expenses incurred for the treatment taken by the appellant/claimant due to the accident and hence, the same does not require any interference by this Court. However, the Tribunal has not awarded any amount towards future medical expenses and attender charges. Considering the nature of the injuries and the disability sustained by the appellant/claimant, this Court is inclined to grant a sum of Rs.10,000/- each towards future medical expenses and attender charges. Further, taking note of the facts and circumstances of the case, this

Court feels it just and appropriate to enhance the compensation awarded by the Tribunal under the heads viz., Transportation, extra nourishment, Pain and suffering and loss of amenities to Rs.10,000/-, Rs.10,000/-, Rs.40,000/- and Rs.15,000/- respectively. However, there is no modification with regard to the award of Rs.500/- towards damage to clothes, which in the opinion of this Court, is just and reasonable. The details of the modified compensation are as follows:-

HEADS	AMOUNT (Rs.)
Transport to Hospital	10,000/-
Extra nourishment	10,000/-
Damage to clothes	500/-
Medical expenses	83,650/-
Pain and suffering	40,000/-
Loss of amenities	15,000/-
Disability	1,20,000/-
Future Medical expenses	10,000/-
Attender charges	10,000/-

TOTAL....	2,99,150/-
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Thus, the compensation awarded by the Tribunal stands enhanced to Rs.2,99,150/- with interest at the rate of 7.5% per annum from the date of petition. It is made clear that the appellant/claimant is not entitled for interest for the period of delay in filing the appeal, in respect of the enhanced amount of compensation. It is also made clear that the appellant has to pay appropriate Court fee in order to receive the awarded amount.

7.The second respondent being the insurer of the first respondent vehicle, is directed to deposit the modified compensation amount as ordered above, after deducting the amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant / claimant is permitted to withdraw the same on making proper application before the Tribunal.

8.Accordingly, this Civil Miscellaneous Appeal is allowed in part. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
The IV Small Causes Court, Chennai.

Copy to :

The Section Officer,
VR Section,
High Court, Madras.

C.M.A.No.493 of 2017

SAI (CO)

RMP (05/05/2021)