IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A. No. 495 of 2017

G. Elangovan .. Appellant /Petitioner

Vs.

1. V.Nedumaran
2. Shriram General Insurance Co. Ltd.
   No. 66, Inside City Center Complex
   Thirumalaipillai Road
   T-Nagar, Chennai. .. Respondents /Respondents

(R1-Already set exparte in Lower Court
R1-Notice may be Dispense with)

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P. No. 1085 of 2011 dated 07.04.2014 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Thiruvallur at Poonamallee.

For Appellant : Mr. J.Mahalingam
For Respondents : R1- Exparte
Mr. S.Dhakshanamoorthy (For R2)

O R D E R

The appeal is filed by the claimant against the judgment and decree dated 07.04.2014 passed in M.C.O.P. No. 1085 of 2011.

2. The accident occurred on 15.08.2011 at about 8.00 a.m. at Kundrathur Road near Government Higher Secondary School and a case was registered by the Traffic Investigation Department, Poonamallee in Crime No. 1526 of /PH2/11. The appellant / claimant sustained serious injuries and taken treatment. Thus, filed a claim petition seeking compensation of Rs.14,86,000/-. The Tribunal adjudicated the issues with reference to the documents as well as the evidences and found that there is a coverage of policy and the respondents are jointly or severally liable in respect of the claim. As far as the quantum of compensation is concerned, the Tribunal has fixed the monthly income of the claimant as Rs.6,500/-. The claimant also has not produced any documentary evidence regarding his occupation. Thus, the Tribunal has fixed 6,500/-. The Doctor assessed the

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partial permanent disability as 45% and the Tribunal has fixed the partial permanent disability as 40% and awarded a sum of Rs.80,000/- as compensation for the partial permanent disability. However, the Tribunal ought to have considered grant of Rs.3,000/- per percentage, in view of the fact that the accident occurred during the year 2011. Thus, the compensation for disablement is to be enhanced to Rs.1,20,000/-. As far as the compensation granted under the head of pain and sufferings is to be enhanced as Rs.20,000/- and for extra nourishment it should be enhanced to Rs.15,000/-, in respect of loss of income the Tribunal has considered 3 months and accordingly, calculated as Rs.19,500/-, which cannot be said to be inadequate. In view of the facts and circumstances, the awarded compensation of Rs.1,76,760/- is enhanced as detailed hereunder:-

1.	Compensation of disablement	Rs.1,20,000/-
2.	Medical expenses	Rs 57,260/-
3.	Compensation of pain and sufferings	Rs. 20,000/-
4.	Loss of Transport expenses	Rs. 5,000/-
5.	Loss of extra nourishment	Rs.15,000/-
6.	Loss of income	Rs.19,500/-
	Total	Rs.2,36,760/-

3. The learned counsel appearing on behalf of the second respondent/ insurance company brought to the notice of this court that as far as the awarded amount by the Tribunal is concerned, the entire awarded amount was deposited with accrued interest. The second respondent /insurance company is directed to deposit the enhanced award amount with interest at the rate of 7.5% per annum, within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the claimant is permitted to withdraw the entire balance amount by filing an appropriate application and the payments are to be made only through RTGS. The claimant is liable to pay additional court fee for the enhanced compensation amount.

4. Accordingly, the judgment and decree dated 07.04.2014 passed in M.C.O.P. No. 1085 of 2011 stands modified and the Civil Miscellaneous Appeal stands allowed in part. Since this Court condoned the delay in M.P. No. 1 of 2015 dated 14.02.2017, the appellant is not entitled for the interest for the delay period. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The II Additional District Judge
Motor Accidents Claims Tribunal
Thiruvallur at Poonamallee.

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

+1cc to M/s.S.Dhakshnamoorthy, Advocate, sr no.21018

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RMP(04/12/2020)

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