

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.540 of 2017

S.Gurusamy

.. Appellant/ Petitioner

Vs.

1. R.Raja

2. The Branch Manager,
Reliance General Insurance Co. Ltd.,
6th Floor, Nungambakkam,
Chennai - 600 006. .. Respondents /Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award made in M.C.O.P.No.2193 of 2013 dated 25.06.2015 on the file of the Motor Accident Claims Tribunal (III Small Causes Court), Chennai.

For Appellant : Mr.R.Nalliyappan

For R2 : Mr.Arunkumar

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award made in M.C.O.P.No.2193 of 2013 dated 25.06.2015 on the file of the Motor Accident Claims Tribunal (III Small Causes Court), Chennai.

2.The facts of the case would run thus:

On 31.03.2013 at about 03.20 hours, the appellant/claimant was travelling as a cleaner in the Tipper lorry bearing Registration No.TN 01 AS 3141 belonging to the first respondent and insured with the second respondent-Insurance Company at Thiruneermalai Main Road, near Nagalkeni Bus stop, Chennai. Due to the rash and negligent driving of the driver of the lorry, the lorry dashed against a lorry which was parked on the left

side of the road, due to which, the appellant sustained grievous injuries all over the body. The appellant filed a claim petition before the Tribunal, claiming a compensation of Rs.30,00,000/-. On consideration of the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the lorry and awarded a total compensation of Rs.9,62,973/- with interest at 7.5% per annum from the date of petition.

3.Challenging the same, the appellant/claimant has come up with this appeal, seeking enhancement of compensation.

4.The learned counsel for the appellant / claimant has submitted that the compensation awarded by the Tribunal is meagre when compared to the claim made by the appellant/claimant. It is also submitted that even though the Doctor who examined the claimant, fixed the percentage of disability at 60%, the Tribunal has reduced the same to 50%, which is not correct. Stating so, the learned counsel prayed for enhancement of compensation, substantially.

5.Per contra, the learned counsel appearing for the second respondent Insurance Company has submitted that the Tribunal has awarded the compensation only after properly analysing the materials and evidence, and further the compensation awarded is just and reasonable and hence the same need not be interfered by this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.With regard to the amount awarded towards disability, the only thing that has to be interfered is the multiplier. This Court is not inclined to interfere with other aspects, in respect of the compensation awarded towards disability. Considering the age of the claimant, ie. 24 years, as per the II Schedule of the Motor Vehicles Act, the correct multiplier that should be adopted is 18. If that is done, the amount towards disability works out to Rs.6,48,000/- (Rs.6000/- x 12 x 18 x 50%) and accordingly it is modified. The amounts awarded by the Tribunal towards other heads are reasonable and hence the same are confirmed. Thus, the details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Disability (6000x12x18x50%)	6,48,000/-
Transport to Hospital	20,000/-
Extra nourishment	20,000/-
Loss of earning during treatment	15,000/-
Damage to clothing	500/-
Medical Expenses	70,473/-
Attender charges	10,000/-
Loss of Marital loss	50,000/-
Loss of Social life	50,000/-
Loss of amenities	15,000/-
Pain and suffering	1,00,000/-

TOTAL...	9,98,973/-
	=====

Therefore, the claimant is entitled to the modified compensation of Rs.9,98,973/- with interest at the rate of 7.5% per annum from the date of petition.

8.In the result, the appeal is partly allowed. No costs. The second respondent Insurance company is directed to deposit the modified amount of compensation, now determined by this Court, along with interest and costs, after deducting 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 being made, the appellant / claimant is permitted to withdraw the same on making proper application before the Tribunal. 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 the appropriate Court fee in order to receive the awarded amount.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

av

To

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

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

C.M.A.No.540 of 2017

CNR (CO)
RMP (06/05/2021)



WEB COPY