IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.790 of 2017

P.Seerangan

...Appellant/Petitioner

Vs.

1. Kodai Auto Mobiles Limited,
   No.176-B Trivandrum Road,
   Palayamkottai,
   Tirunelveli-627 002.

2. M/s.The Oriental Insurance Company Limited,
   24-E, 12-A, Sivasakthi Shopping Complex,
   SN High Road,
   Tirunelveli District-627001.

..Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 29.09.2014 made in M.C.O.P.No.228 of 2013, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Namakkal.

For Petitioner : Mr.M.A.P.Thangavel
For Respondents : R1-Ex-parte
Mr.M.Krishnamoorthy for R2.

J U D G M E N T

The claimant preferred this appeal seeking enhancement of compensation.

2. The accident occurred on 06.09.2012 at about 8.00 a.m near NSR Rice mill cut road in Namakkal to Salem Main Road. The appellant/claimant suffered multiple grievous injuries and compound fractures in his head, chest, both leg, both hand, shoulder and some other injuries all over the body.

3. The appellant/claimant states that on account of grievous injuries, he sustained permanent disability and was taking treatment continuously for several months. The Tribunal adjudicated the issues and arrived at a conclusion that the accident was established and the Insurance Company is liable to pay compensation. The nature of injuries as per P.W.2/Doctor, are as hereunder:

1.Poly Trauma:Crush injury right ankle with fracture medial malleolus right ankle.
2. Contusion right chest with fracture ribs 1 to 6.
3.Fracture scapula right
4.Contusion left chest with fracture ribs 1 to 4 left contusion.
5.Non Hemorrhagic left MCA infarct.
6.Bronco Pneumonia
7.Diabetes Mellitu-type 2

4. The Doctor assessed the disability as 50%. However, the permanent disability has not been assessed as per the current schedule. Accordingly, the Tribunal has adopted the multiplier method by taking into consideration the permanent disability as 25%.

5. The learned counsel appearing on behalf of the appellant mainly contended that the monthly income fixed by the Tribunal is lesser than that of income of the appellant/claimant. The Tribunal fixed the monthly income of Rs.4000/-, which is lesser.

6. The learned counsel appearing on behalf of the Insurance Company disputed the contention by stating that the total compensation of Rs.7,66,876/- cannot be said to be inadequate compensation.This apart, the income was fixed by the Tribunal is Rs.4,000/-, in view of the fact that the claimant has not been proved the actual income through any document.Therefore, there is no infirmity as such in the award of compensation.

7. This Court is of the considered opinion that on perusal of the entire findings, it is seen that the medical expenses alone comes to Rs.6,31,876/-. When the appellant/claimant has sustained grievous injuries and spend about Rs.6,31,876/- towards medical expenses, then the compensation awarded under the heads are inadequate. The injuries are certainly grievous in nature and caused permanent disability to the appellant/claimant. Thus, this Court instead of applying the multiplier method, is inclined to fix the disability at 40% and a sum of Rs.4,000/- per percentage may be fixed so as to enhance the compensation under the head of disability. In respect of other heads also, the payment deserves some enhancement. Accordingly, the compensation of Rs.7,66,876/- awarded by the Tribunal is enhanced as detailed hereunder:

Loss of earning (Rs.4000 x 6)	:	Rs.24,000/-
Transport to hospital	:	Rs.10,000/-
Extra Nourishment	:	Rs.10,000/-

Medical Expenses	:	Rs.6,31,876/-
Pain and sufferings	:	Rs.20,000/-
Permanent disability (Rs.4000/- x 40%)	:	Rs.1,60,000/-
Total	:	Rs.8,55,876/-

8. The total compensation payable to the appellant is Rs.8,55,876/-. The second respondent/Insurance Company is directed to deposit the enhanced compensation along 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 appellant/claimant is permitted to withdraw the amount by filing an appropriate application and the payments are to be made through RTGS. Accordingly, the judgment and decree dated 29.09.2014 passed in M.C.O.P.No.228 of 2013 is set aside and the Civil Miscellaneous Appeal stands allowed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssb

To

The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Namakkal.

+1 CC to Mr.M.Krishnamoorthy, Advocate sr 23347
+1 CC to Mr.M.A.P.Thangavel, Advocate sr 23429.

BP(CO)
SP(21/01/2021)