

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.4860 of 2019

Ponnusamy

.. Appellant

Vs.

1.Bhuvaneswari

2.National Insurance Company Ltd.,
Mahalakshmi Nivasam, Rajaji Road,
Maravaneri, Salem - 636 007.

3.Dineshkumar

4.National Insurance Company Ltd.,
Mahalakshmi Nivasam, Rajaji Road,
Maravaneri, Salem - 636 007.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.09.2019 made in M.C.O.P.No.414 of 2015 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For R2 : Mr.D.Bhaskaran

R3 : Exparte

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 07.09.2019 made in M.C.O.P.No.414 of 2015 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Salem.

2.The appellant is claimant in M.C.O.P.No.414 of 2015 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Salem. He filed the said claim petition

claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 05.09.2014.

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 car belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said car to pay a sum of Rs.73,000/- as compensation to the appellant. However, the Tribunal dismissed the claim petition in respect of the respondents 3 & 4.

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/claimant contended that the appellant was working as a rig driller and was earning a sum of Rs.20,000/- per month. The appellant was aged 40 years at the time of the accident. Due to the accident, he sustained grievous injuries and fracture of 4th & 5th metacarpal right with right ankle sprain and concussion in right knee. He took treatment as in-patient in Krishna Hospital, Tiruchengode from 05.09.2014 to 08.09.2014. Due to the injuries sustained by the appellant, he could not continue his work as he was doing earlier. The Tribunal has not awarded any amount towards loss of amenities and damages to cloth. 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 the learned counsel appearing for the 2nd respondent/Insurance Company and perused all the materials available on record.

8.From the materials available on record, it is seen that the appellant has suffered fractures and multiple injuries all over the body. The appellant has taken treatment for four days as inpatient in Krishna Hospital, Tiruchengode from 05.09.2014 to 08.09.2014, however the appellant has not examined the Doctor

to prove the disability. In the absence of any material evidence, the Tribunal has awarded a sum of Rs.23,000/- and Rs.25,000/- towards medical expenses and pain & sufferings respectively which are proper. The amounts awarded by the Tribunal towards transportation charges, extra nourishment and attendant charges are meagre. Considering the period of treatment and nature of injuries sustained by the appellant, this Court awards a sum of Rs.10,000/- each towards transportation charges, extra nourishment and attendant charges. The Tribunal has not granted any amount towards damages to cloth. A sum of Rs.2,000/- is granted towards damages to cloth. The amount awarded by the Tribunal towards loss of income is just and reasonable and hence the same is 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 or reduced
1.	Medical expenses	23,000	23,000	Confirmed
2.	Pain and sufferings	25,000	25,000	Confirmed
3.	Transportation charges	5,000	10,000	Enhanced
4.	Extra nourishment	5,000	10,000	Enhanced
5.	Attendant charges	5,000	10,000	Enhanced
6.	Loss of income	10,000	10,000	Confirmed
7.	Damages to cloth	2,000	2,000	Granted
	Total	Rs.73,000/-	Rs.90,000/-	Enhanced to Rs.17,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.73,000/- is hereby enhanced to Rs.90,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant 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. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. The appeal is dismissed as against the respondents 3 & 4. No costs.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

mtl

To

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

Copy To :

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

+2cc to Mr.C.Paraneedharan, Advocate SR.No.3558

+1cc to Mr.D.Bhaskaran, Advocate SR.No.3562

C.M.A.No.4860 of 2019

BP (CO)
GMY (28/04/2021)

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