



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2533 of 2014

P.C.Ramanathan

.. Appellant/Petitioner

Vs.

1.M/s.Indev Logistics

No.8, Thambu Chetty Street

Chennai-1.

(R1 remained exparte before the Tribunal)

2.The United India Insurance Co. Ltd.

38, Anna salai

Chennai-2.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.09.2007 made in M.C.O.P.No.192 of 2006 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Tiruvallur.

For Appellant : Mr.K.R.Ponnusamy
for M/s.Anand and Surya
For R2 : Mr.D.Bhaskaran

J U D G M E N T

This matter is heard through "Video-Conferencing".

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 12.09.2007 made in M.C.O.P.No.192 of 2006 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Tiruvallur.

2.The appellant is claimant in M.C.O.P.No.192 of 2006 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Tiruvallur. He filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 13.08.2006.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the lorry belonging to the 1st respondent and directed both the 1st respondent as well



as the 2nd respondent/Insurance Company being insurer of the said lorry to jointly and severally pay a sum of Rs.2,75,000/- as compensation to the appellant.

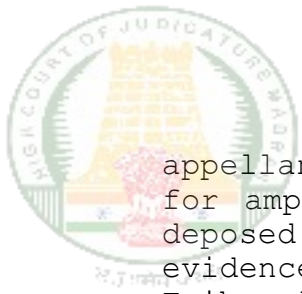
4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant contended that the appellant suffered fracture in the right leg, right hand and grievous injuries all over the body. His right hand above elbow was amputated, surgery was conducted, plates and screws were fixed in his right leg for fracture. P.W.2/Doctor assessed the total disability of the appellant at 95% for two parts of the body. The Tribunal granted only a sum of Rs.85,000/- towards disability. Due to the disability, the appellant could not do the work of salesman and he lost his entire earning power. The Tribunal ought to have fixed monthly income of the appellant at least at Rs.5,000/-, adopted multiplier method and awarded compensation for 95% disability. The appellant has taken treatment as in-patient in the hospital for 29 days and also continued his treatment as out-patient at Tiruthani and also at Chennai. The Tribunal failed to award any compensation towards, loss of income, attendant charges and damage to clothes. The amounts awarded by the Tribunal towards transportation, extra nourishment and pain and suffering are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellant failed to prove his avocation and income and that he suffered functional disability and totally lost his earning power. The Tribunal has rightly granted a sum of Rs.85,000/- towards disability, which is not meagre. The amounts awarded by the Tribunal under different heads are not meagre. 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 the entire materials on record.

8. From the materials on record, it is seen that it is the contention of the appellant that due to the injuries suffered by him in the accident, his right hand above elbow was amputated. He suffered fracture on his right leg, surgery was conducted and plates and screws were fixed. According to the appellant, he could not do his earlier work as Salesman in the wine shop. To substantiate this contention, the appellant examined himself as P.W.1 and the Doctor as P.W.2. P.W.2/Doctor examined the

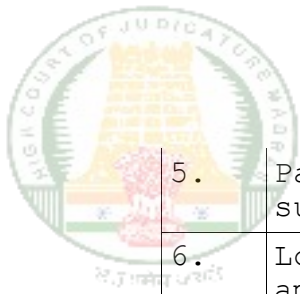


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appellant, certified that the appellant suffered 70% disability for amputation and 25% disability for fracture in the leg and deposed to that effect. The respondents have not let in any evidence to disprove the evidence of P.W.1 and P.W.2/Doctor. The Tribunal granted a sum of Rs.85,000/- towards disability. From the materials and the photographs filed by the appellant, it is seen that right hand of the appellant above elbow has been amputated and from the evidence of P.W.2/Doctor, it is seen that plates have been fixed in his right leg. Considering the nature of work done by him, this Court is of the view that it is a fit case to grant compensation towards disability by adopting multiplier method. P.W.2/Doctor assessed the disability of the appellant for two parts of the body. The appellant has failed to prove that he cannot do any work after the accident. In view of the same, the disability assessed by P.W.2/Doctor for two parts of the body is converted into whole body and disability is fixed at 32% for loss of earning power. The appellant was aged 45 years at the time of accident. The multiplier applicable is '14'. A sum of Rs.5,000/- per month is fixed as notional income of the appellant as claimed by the appellant in the grounds of appeal. Thus, the compensation granted by the Tribunal towards disability is modified to Rs.2,68,800/- (Rs.5,000/- X 12 X 14 X 32/100).

8(i). The appellant has taken treatment in MIOT hospital as in-patient from 13.08.2006 to 11.09.2006 and marked the discharge summary as Ex.P3. The Tribunal has not awarded any amount towards attendant charges and damage to clothes. Considering the period of treatment taken by the appellant, a sum of Rs.10,000/- is awarded towards attendant charges and Rs.1,000/- is awarded towards damage to clothes. The amounts granted by the Tribunal towards transportation and extra nourishment are meagre and hence, the same are hereby enhanced to Rs.10,000/- each. The amounts awarded by the Tribunal under all other heads are not meagre and hence, the same are 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.	Disability	85,000	2,68,800	Enhanced
2.	Medical expenses	1,25,600	1,25,600	Confirmed
3.	Transportation	4,400	10,000	Enhanced
4.	Extra nourishment	5,000	10,000	Enhanced



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5.	Pain and suffering	30,000	30,000	Confirmed
6.	Loss of amenities	25,000	25,000	Confirmed
7.	Attendant charges	-	10,000	Granted
8.	Damage to clothes	-	1,000	Granted
	Total	2,75,000	4,80,400	Enhanced by Rs.2,05,400/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,75,000/- is hereby enhanced to Rs.4,80,400/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. It is made clear that the appellant is not entitled for any interest for the delay period on the amount of Rs.2,05,400/- enhanced by this Court as per the order of this Court dated 19.08.2014 made in M.P.No.2 of 2009 in C.M.A.SR.No.17296 of 2009. The respondents 1 and 2 are directed to jointly and severally deposit the 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 is permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

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To

1. The Chief Judicial Magistrate
Motor Accident Claims Tribunal
Tiruvallur.

2. The Section Officer

V.R. Section, High Court, Chennai.

+1cc to M/s. Anand & Surya, Advocate, S.R.No. 41942

C.M.A.No.2533 of 2014

MG(CO)

GN(25/08/2021)