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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.74 of 2021

Uthirasamy .. Appellant/ Petitioner

Vs.

1.Satheeshkumar

2.The United India Insurance Company Limited,
Divisional Office, HUB Ranga Building,
Peramanur Main Road, Peramanur,
Salem - 636 007. .. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 02.06.2020 made in M.C.O.P.No.1190 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Salem.

For Appellant : Mr.T.S.Arthanareeswaran
for Mr.C.Paraneedharan

For R2 : Ms.I.Malar

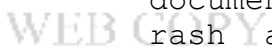
J U D G M E N T

The matter is heard through "Video Conferencing".

2.By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final hearing admission stage itself.

3.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 02.06.2020 made in M.C.O.P.No.1190 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Salem.

4.The appellant is the claimant in M.C.O.P.No.1190 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Salem. He filed the above said claim petition, claiming a sum of Rs.15,00,000/- as compensation for the



5. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the motorcycle belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.3,15,081/- as compensation to the appellant at the first instance and recover the same from the 1st respondent.

7. The learned counsel appearing for the appellant contended that in the accident the appellant suffered head injury, both bone fracture in left leg, D/3 with fracture in right temporal bone, bilateral frontal contusion with thin SDH at right frontal area. The Medical Board, Government Hospital, Omalur examined the appellant and certified that appellant suffered 25% disability and issued disability certificate Ex.C1 to that effect. The Tribunal awarded a meagre sum of Rs.75,000/- towards disability at the rate of Rs.3,000/- per percentage of disability. The accident occurred in the year 2016 and the Tribunal ought to have awarded a sum of Rs.5,000/- per percentage of disability. At the time of accident, the appellant was working as Mason and was earning a sum of Rs.25,000/- per month. But the Tribunal fixed a meagre sum of Rs.7,500/- per month as notional income of the appellant and awarded compensation towards loss of income only for five months. The appellant has taken treatment at Government Hospital, Tiruchengode and also at Krishna Hospital, Tiruchengode as inpatient for 17 days from 01.01.2016 to 17.01.2016. The Tribunal failed to award any amount towards future medical expenses. The amounts awarded by the Tribunal towards loss of income, pain and sufferings, attendant charges and extra nourishment are meagre and prayed for enhancement of compensation.

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any case for enhancement of compensation and prayed for dismissal of the appeal.

9. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent and perused the entire materials on record.

10. From the materials available on record, it is seen that it is the contention of the appellant that in the accident he suffered head injury, both bone fracture in left leg, D/3 with fracture in right temporal bone, bilateral frontal contusion with thin SDH at right frontal area. The Medical Board, Government Hospital, Omalur examined the appellant and certified that appellant suffered 25% disability. The disability certificate issued by the Medical Board, Government Hospital, Omalur was marked as Ex.C1. The Tribunal accepted the disability certificate issued by the Medical Board and awarded a sum of Rs.75,000/- for 25% of disability at the rate of Rs.3,000/- per percentage of disability and the same is meagre. This Court by the judgment reported in 2020 (1) TN MAC 617 [M. Chinnathambi Vs. S. Deepa and another], fixed a sum of Rs.4,000/- per percentage of disability for the accident occurred in the year 2014 & 2015 and a sum of Rs.5,000/- per percentage of disability for the accident occurred from the year 2016 onwards, due to raise in cost of living. In the present case, the accident is of the year 2016. In view of the same, a sum of Rs.5,000/- is awarded per percentage of disability. Thus, the compensation awarded by the Tribunal towards disability is modified to Rs.1,25,000/- (Rs.5,000/- X 25% disability).

11. It is the contention of the appellant that at the time of accident, he was working as a Mason and was earning a sum of Rs.25,000/- per month. He failed to prove the said contention. In the absence of any material evidence with regard to avocation and income, the Tribunal fixed a sum of Rs.7,500/- per month as notional income of the appellant and awarded compensation towards loss of income for five months. The accident occurred in the year 2016 and the notional income fixed by the Tribunal is meagre. Therefore, a sum of Rs.14,000/- per month is fixed as notional income of the appellant. Thus, the compensation awarded by the Tribunal towards loss of income is modified to Rs.70,000/- (Rs.14,000/- X 5 months). The appellant has taken treatment at Government Hospital, Tiruchengode and also at Krishna Hospital, Tiruchengode as inpatient for 17 days from 01.01.2016 to 17.01.2016. Considering the nature of injuries and period of treatment taken by the appellant, the amounts awarded by the Tribunal towards attendant charges, extra nourishment and damages to clothes are meagre and the same are enhanced to Rs.20,000/-, Rs.20,000/- and Rs.3,000/- respectively. The appellant has not



produced any medical records to show that he requires further medical treatment. Hence, he is not entitled to any amount towards future medical expenses. The amounts awarded by the Tribunal towards pain and sufferings, transportation, medical expenses, future medical expenses and loss of amenities are just and reasonable 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
1.	Disability	75,000/-	1,25,000/-	Enhanced
2.	Pain and sufferings	25,000/-	25,000/-	Confirmed
3.	Loss of income	37,500/-	70,000/-	Enhanced
4.	Extra nourishment	12,500/-	20,000/-	Enhanced
5.	Damages to clothes	1,000/-	3,000/-	Enhanced
6.	Attendant charges	12,500/-	20,000/-	Enhanced
7.	Medical expenses	1,14,081/-	1,14,081/-	Confirmed
8.	Transportation	12,500/-	12,500/-	Confirmed
9.	Loss of amenities	25,000/-	25,000/-	Confirmed
	Total	Rs.3,15,081/-	Rs.4,14,581/-	Enhanced by Rs.99,500/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,15,081/- is hereby enhanced to Rs.4,14,581/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to 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, to the credit of M.C.O.P.No.1190 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Salem, at the first instance and recover the same from the 1st respondent. 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 by making necessary applications before the Tribunal. No costs.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Subordinate Judge No.I,
Motor Accident Claims Tribunal,
Salem.

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

+2ccs to Mr.T.S.Arthanareeswaran, Advocate SR.No. 4386
C.M.A.No.74 of 2021
A.SK(13.09.2021)