



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.02.2021

CORAM:

WEB COPY

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.1234 of 2009

E.Mohanraj ... Petitioner/Appellant

..Vs..

1. M/s.Vasan Enterprises
No.1, 9th Cross Street,
New Colony, Chrompet,
Chennai - 2.

2. United India Insurance Co. Ltd.,
No.38, Anna Salai,
Chennai-2.

... Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 14.10.2006 made in M.C.O.P.No.5170 of 2004 on the file of V Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For Appellant	:	Ms.Salomi for Mr.T.Seshaiah
For Respondent No.2	:	Mr.C.Paranthaman
For Respondent No.1	:	Notice unserved

JUDGMENT

Dissatisfied with the award, dated 14.10.2006 passed in M.C.O.P.No. 5170 of 2004, by the Motor Accident Claims Tribunal, Chennai, the claimant is before this Court for enhancement of Compensation awarded by the tribunal.

2. The case of the claimant is that on 4.09.2004 at about 11.30 a.m., while the appellant was riding a T.V.S. Excel motorcycle bearing registration No.TN-22-AE-3690 proceeding towards Pallavaram at G.S.T. road from West to East, near Pallavaram signal, when he was taking right turn, a lorry bearing registration No.TN-31-V-2178 coming from Chennai and proceeding towards Tambaram in a rash and negligent manner and without following the signal, hit against the claimant, thereby caused accident resulting in the appellant sustained grievous injuries. The appellant has filed a claim petition before the Tribunal, claiming Rs.15,00,000/- as compensation against the respondents.



3 On the side of the appellant, P.W.1 and 2 were examined and Ex.P1 to P13 were marked. No witness was examined and one postal cover was marked as Ex.R1. The Tribunal, based on the oral and documentary evidence, has awarded Rs.3,05,000/- as total compensation along with interest at the rate of 7.5% p.a from the date of petition till realization. The total compensation awarded by the tribunal under various heads are as follows:

Heads	Amount in Rs.
Permanent disability 90%	2,00,000/-
Pain and sufferings	25,000/-
Loss of income for 70 days	24,000/-
Transportation	2,000/-
Future Transport expenses	10,000/-
Extra Nourishment	2,000/-
Medical expenses	32,000/-
Future Attendant charges	10,000/-
Total :	3,05,000/-

Being not satisfied with the award passed by the tribunal, the petitioner has preferred the present appeal for enhancement of compensation.

4. Heard the learned counsel appearing for the claimant/ appellant and the learned counsel appearing for the respondent/Insurance Company and perused the materials available on record.

5. P.W.2 Dr.Saichandran who examined the appellant, assessed the disability of the appellant as 90% permanent disability and issued disability Certificate Ex.P10 and X-Ray marked as Ex.P11. Tribunal based on the aforesaid evidence and considering his age of 49 years, came to the conclusion that the appellant sustained 90% permanent disability and awarded a sum of Rs.2,00,000/- towards permanent disability. According to the learned counsel for the appellant/ claimant, Rs.2,00,000/- awarded by the tribunal for 90% permanent disability is inadequate as the appellant lost his leg by way of amputation. After surgery, artificial lower limb was fixed for moving normal life. Therefore, this Court is of the view that the appellant is entitled for Rs.2500/- per percentage towards permanent disability. Insofar as pain and sufferings, the appellant is entitled for Rs.40,000/- and Attendant charges during treatment period of 4 months, the appellant is entitled to Rs.12,000/-. For Transportation during treatment period he require Rs.5,000/- and Rs.15,000/- towards Extra Nourishment. At the time of accident, the appellant had 10 years of service in the department. Therefore, the appellant needs attender to move one place to



another. Further, for attending office, it require additional expenses for travelling by autorickshaw till his service. Therefore, this Court is inclined to enhance the compensation by awarding Rs.25,000/- towards attendant charges and Rs.25,000/- future transport expenses. For loss of amenities, the tribunal has not awarded compensation. It is appropriate for this Court to fix a sum of Rs.20,000/- towards loss of amenities. Accordingly, the award passed by the tribunal is modified as follows:

Heads	Compensation Awarded by the Tribunal Rs.	Compensation enhanced/awarde d by this Court Rs.
Permanent disability 90% x Rs.2500/-	2,00,0 00/-	2,25,000/ -
Pain and sufferings	25, 000/-	40,000 /-
Loss of income for 70 days	24, 000/-	24,000/-
Transportation	2, 000/-	5,000/-
Future Transport expenses	10,0 00/-	25,000/ -
Extra Nourishment	2,0 00/-	15,000/ -
Medical expenses	32,00 0/-	32,000/ -
Future Attendant charges	10,00 0/-	25,000/ -
Attendant charges for 4 months	--	12,000/ -
Loss of amenities	--	20,000/ -
Total :	3,05,000/-	4,23,000/-

The compensation awarded by the tribunal is modified to the aforesaid extent. Except the above modification, the award passed by the tribunal is confirmed.

6. Accordingly, the claimant/appellant is entitled to total compensation of Rs.4,23,000/- along with interest at the rate of 7.5% p.a. The respondent/Insurance company is directed to deposit the enhanced compensation amount along with interest at the rate of 7.5% p.a. from the date of petition till realization, within a period of eight weeks from the date of receipt of copy of the judgment after deducting the amount if any already deposited before the tribunal. On such deposit being made by the



respondent/Insurance Company, the claimant/appellant is entitled to withdraw the amount by filing appropriate application.

7. In fine, the Civil Miscellaneous Appeal is partly allowed to the aforesaid extent. No costs.

s/d-
Assistant Registrar(CS)

True Copy

Sub-Assistant Registrar

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To

1.The V Small Causes Judge,
(Motor Accidents Claims Tribunal), Chennai

2.The Section Officer,
V.R.Section, Madras High Court, Chennai-104.

+1cc to Mr.C.Paranthaman, Advocate SR.No. 8304

Civil Miscellaneous Appeal
No.1234 of 2009

(CO)

A.SK(07.09.2021)