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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.No.2292 of 2010

K.Karthikeyan

... Appellant/Petitioner

Versus

1. Narendra Salaskar

2. United India Insurance Co. Ltd.

38, Anna Salai,

Chennai-600 002.

..1 & 2 Respondent/1st and 2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order and decree dated 30.04.2008 made in M.A.C.T.O.P. No.4345/2004 on the file of the Motor Accident Claims Tribunal (I Fast Track Court) Chennai.

For Appellant : Mr.Ma.P.Thangavel

For 2nd Respondent : Mr.S.Arun Kumar

R1 : Exparte

J U D G M E N T

This appeal is laid as against the judgment and decree dated 30.04.2008 made in M.A.C.T.O.P. No.4345/2004 on the file of the Motor Accident Claims Tribunal (I Fast Track Court) Chennai, thereby awarding a compensation to the tune of Rs.1,60,000/-

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.

3. The case of the claimant is that on 10.10.2003 at about 11.00 a.m., when he was travelling in a bus bearing Registration No.TN-01-N-9014 of the M.G.R. Transport Corporation from his college at Kunnathur towards Tirutani, a lorry belonging to the 1st respondent bearing Registration No.AP-13-T-6244 driven by his driver in a rash and negligent manner and endangering to public



safety, dashed against the right side of the bus wherein the petitioner and others who were travelling in the bus got severally injured. Due to the said accident, he sustained fracture of shaft of humerus right arm and other dental fracture at his teeth. He also sustained abrasions all over his body. Immediately, he was taken to the Government General Hospital, Tiruttani and thereafter referred to Stanly Medical College Hospital, Chennai. He was treated as in-patient and he had taken treatment from 10.10.2003 to 6.12.2003. His disability was assessed at 45% and filed Claim Petition for a sum of Rs.10,00,000/-.

4. Resisting the same, the 2nd respondent filed a counter stating that the accident took place only on the rash and negligent driving of the bus in which the claimant was travelled and as such, the 2nd respondent is held to be liable for any compensation.

5. On the side of the claimant, he examined P.Ws.1 to 3 and marked Ex.P.1 to Ex.P22. On the side of the respondents neither oral nor documentary evidence was let in. On the basis of the evidence available on records and also considering the submission made by the learned counsel appearing on either side, the Tribunal found that the negligence was on the part of the 1st respondent and awarded compensation of Rs.1,60,000/- being payable by the respondents. Being not satisfied with the quantum of the compensation awarded by the Tribunal, the claimant came forward with the present appeal seeking enhancement of the award amount.

6. The learned counsel appearing for the claimant submits that at the time of the accident, the petitioner was aged about 20 years and he was a student of Marine Engineering and only due to the accident, he could not continue his studies and only after one year, he continued his studies. Since he sustained fracture on his right hand, he could not even join in Marine or Air Force or Military. His teeth were also broken and artificial teeth were fixed. Therefore, the said disablement was assessed at 30% of his disability. He was treated as in-patient from 10.10.2003 to 06.12.2003 and even the Tribunal awarded only a sum of Rs.45,000/- for his pain and sufferings and in other heads, the Tribunal awarded very meagre amount as compensation.

7. Per contra, the learned counsel appearing for the 2nd respondent would contend that the Doctor who deposed was nothing but a stock witness of the court and his evidence cannot be considered for awarding compensation. The claimant sustained only partial disablement and the disability at 45% is higher and the Tribunal has rightly awarded compensation at Rs.60,000/- for



disablement on his right hand. Further, he pleaded that the accident took place in the year 2005, as such, the Tribunal has rightly awarded the compensation and it does not require any interference at the hands of this Court.

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8. Heard Mr.Ma.P.Thangavel, learned counsel appearing for the claimant and Mr.S.Arun Kumar, learned counsel appearing for the 2nd respondent.

9. The claimant met with an accident and due to which he suffered fracture on his right hand. His teeth were also broken and he was admitted as in-patient on 10.10.2003 and he was discharged from the hospital on 06.12.2003. He has undergone surgery on his right hand and plates were also fixed to connect the bones. Therefore, his disablement was assessed at 45%. It is only a partial disablement. Even then, the Tribunal awarded only a sum of Rs.60,000/- as compensation towards disablement. The Tribunal has awarded only Rs.45,000/- for the pain and sufferings suffered by the petitioner between 10.10.2003 and 06.12.2003 while taking treatment as in-patient. Therefore, this Court is inclined to enhance the compensation awarded by the Tribunal.

10. Accordingly the compensation awarded by the Tribunal stands enhanced as under :-

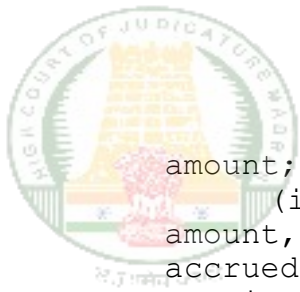
Sl.No	Heads	Awarded by the Tribunal Rs.	Awarded by this Court Rs.
1	Fracture of Right Hand Humorous Bone	60,000	75,000
2	Fracture of Teeth	35,000	35,000
3	Pain and Sufferings	45,000	60,000
4	Transportation	10,000	10,000
5	Extra Nourishment	10,000	25,000
	Total	1,60,000	2,05,000

11. In the result the Civil Miscellaneous Appeal is partly allowed as follows:-

(i) The award passed by the Tribunal is enhanced from Rs.1,60,000/- to Rs.2,05,000/-;

(ii) The award amount will carry the interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit;

(iii) The claimant is entitled to get the enhanced award



amount;

(iv) The 2nd respondent is directed to deposit the award amount, less the amount, if any, already deposited, along with accrued interest within a period of six weeks from the date of receipt of copy of this Judgment.

(v) On such deposit, the claimant is permitted to withdraw the amount awarded as above by filing proper application before the Tribunal.

(vi) The claimant shall pay requisite Court fee before the receipt of the copy of the judgment for the enhanced compensation.

(vii) There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The Judge, Motor Accident Claims Tribunal,
(I Fast Track Court)
Chennai.

Copy to:
The Section Officer,
V.R.Section,
Madras High Court,
Chennai.

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No.24406

C.M.A.No.2292 of 2010

SVI (CO)
CB(29/09/2021)