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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNA KUMAR

C.M.A.NO.3313 OF 2010

Giri

... Appellant/Petitioner

..Vs..

1. V.Sekar

2. United India Insurance Co. Ltd.,
Motor Third Party Claims Office,
No.38, Anna Salai,
Chennai-600 002.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the VI Judge, (MACT), Court of Small Causes, Chennai in M.C.O.P.No.1471 of 1995 dated 16.04.1998.

For Appellant : Mr.J.Mahalingam
For Respondent-2 : Mr.C.Paranthaman

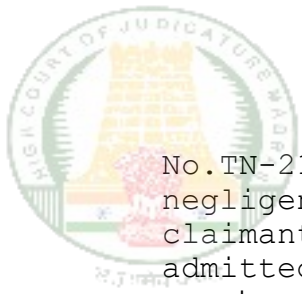
J U D G M E N T

Being aggrieved by the award passed by the Motor Accident Claims Tribunal/learned VI Judge (FTC-2), (MACT), Court of Small Causes, Chennai in M.C.O.P.No.1471 of 1995 dated 16.04.1998, the appellant/claimant has preferred this appeal for enhancement of compensation.

2. Heard Mr.J.Mahalingam, learned counsel for the appellant and Mr.C.Paranthaman, learned counsel appearing on behalf of the second respondent/Insurance Company. In spite of the notice unserved to the first respondent, taking into account, the year of the appeal and also with the consent of both the appellant as well as the second respondent/Insurance Company, the appeal is taken up today "for final disposal".

3. The brief facts of the case is as follows:-

a) On 29.11.1993 at about 2.30 pm when the claimant was riding his bicycle at NSK Salai, a lorry bearing registration



No.TN-21-Z-6379 which was driven by its driver in a rash and negligent manner hit the claimant, due to which, the appellant claimant had suffered crush injury at his right foot. He was admitted in the Government Hospital and he has taken treatment as in-patient for one month. Aggrieved over the same, the claimant had preferred a claim petition before the Tribunal, claiming a sum of Rs.3 lakhs as compensation for the injuries sustained by him in the accident.

b) Before the Tribunal, P.W.1 to P.W4 are examined as witnesses and Exs.P1 to P6 were marked on the side of the claimant. No witness has been examined or documents have been marked on the side of the respondents. The Tribunal after analysing the oral and documentary evidences, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the lorry which was insured with the second respondent Insurance Company herein and directed the second respondent/Insurance Company herein to pay a sum of Rs.87,000/- with interest at the rate of 12% per annum from the date of claim till the date of realization as compensation.

c) The break-up details of the award passed by the Tribunal are as follows:-

Serial No.	Heads	Amount (Rs.)
1	Loss of income due to permanent disability	50,000
2	Pain and sufferings	5,000
3	Loss of earning power	25,000
4	Loss of income during treatment period	5,000
5	Transportation	1,000
6	Extra nourishment	1,000
	Total	87,000

4. Challenging the aforesaid award passed by the Tribunal, the claimant/appellant has come forward with the present appeal for enhancement of compensation.

5. The learned counsel for the appellant submitted that the Tribunal had erred in awarding the compensation under loss of income for permanent disability as 50% disability crush injury at the right foot was suffered by the claimant in the accident



and contended that as employed as turner, it affects its future earning capacity and warrants interference by this Court. She further submitted that the amount awarded under the non pecuniary heads also needs enhancement.

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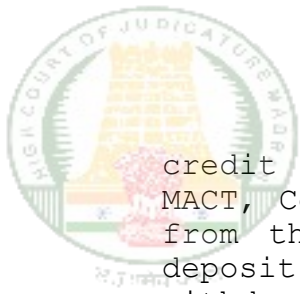
6. On the other hand, the learned counsel for the second respondent Insurance Company submitted that the award passed by the Tribunal is just and reasonable and warrants no interference.

7. Considering the facts and circumstances of the case, this Court is of the opinion that since the appellant/claimant had suffered 50% disability due to the accident, a sum of Rs.1,00,000/- has to be awarded towards loss of income due to permanent disability i.e., awarding Rs.2000/- per percentage of disability. The amounts awarded by the Tribunal towards pain and sufferings and loss of income during the treatment period are confirmed by this Court. In respect of non pecuniary heads, this Court taking into account of the crush injury sustained by the claimant in the accident, a sum of Rs.5000/- each towards transportation, extra nourishment and attendant benefits respectively are granted. The appellant/claimant is entitled for a sum of Rs.10,000/- towards loss of amenities. A sum of Rs.15,000/- is granted towards loss of earning power in the future. In total, the award passed by the Tribunal is enhanced to Rs.1,70,000/- from Rs.87,000/-. It is made clear that the interest for the enhanced amount is at the rate of 7.5% p.a. from the date of appeal till the date of realization.

8. The break-up details of the compensation amount awarded by this Court is as follows:

Serial No.	Heads	Amount (Rs.)
1	Loss of income due to permanent disability	1,00,000
2	Loss of income during treatment period	5,000
3	Pain and sufferings	25,000
4	Transportation	5,000
5	Attendant benefits	5,000
6	Extra nourishment	5,000
7	Loss of amenities	10,000
8	Loss of earning power	15,000
	Total	1,70,000

9. Accordingly, the Civil Miscellaneous Appeal is allowed. The second respondent herein/Insurance Company is directed to deposit the enhanced amount with 7.5% p.a. interest to the



credit of M.C.O.P.No.1471 of 1995, before the learned VI Judge, MACT, Court of Small Causes, Chennai, within a period of 6 weeks from the date of receipt of a copy of this order. On such deposit being made, the appellant/claimant is entitled to withdraw the entire/enhanced compensation amount on filing appropriate petition before the Tribunal. There shall be no orders as to costs.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

DP

To

1. The Judge,
VI Small Causes Court,
(The Motor Accident Claims Tribunal),
Chennai.
2. The Record Keeper,
V.R. Section,
High Court, Madras.

+1cc to Mr.C.Paranthaman, Advocate, S.R.No.3544

C.M.A.No.3313 of 2010

VGII(CO)
CS/07/09/2021