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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.02.2021

PRONOUNCED ON : 20.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.NO.1657 OF 2015

R.Rajendran

... Appellant/Petitioner

.Vs.

1. M/s.Ambassador Tours and Travels
KRS Garden, MVJ College Road,
White Field,
Bangalore - 66.

2. United India Insurance Company Limited,
C/o.Motor Third Party Claims Offices,
No.38, Anna Salai,
Chennai - 600 002.

... Respondents/Respondents

PRAYER:-

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in MCOP.No.4192 of 2004, on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court at Chennai, dated 02.06.2011.

For Appellant : Mr.T.G.Balachandran

For R1 : No appearance

For R2 : Given up

JUDGMENT

(This case has been heard through video conference)

The claim petitioner is the appellant herein.

2. The appellant herein/claim petitioner is a traffic police - head constable - 8857 in E5 Pattinapakkam Police Station, serving Tamil Nadu Police Services, has suffered injuries in the accident took place on 22.08.2004.



Accordingly, he has filed a claim petition in MCOP.No.4192 of 2004, on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court at Chennai, claiming compensation and the Tribunal has awarded a sum of Rs.49,000/- as compensation. Aggrieved against the same, the claim petitioner has preferred this Civil Miscellaneous Appeal to enhance the awarded compensation amount.

3. The factum of the accident manner of the accident, rash and negligence driving on the part of the driver of the offending vehicle are not under dispute and the same is hereby confirmed by this Court.

4. Before the Tribunal, during the course of trial, on behalf of the claim petitioner PW1 to PW4 have been examined and marked the documents as Exs.P1 to P17 and on behalf of the respondents RW1 to RW4 have been examined and marked the documents as Exs.R1 to R12

5. Heard the learned counsel for the appellant herein/claim petitioner and perused the materials placed on record.

6(a). On a perusal of the records, it is seen that the appellant/claim petitioner is a traffic police - head constable - 8857 in E5 Pattinapakkam Police Station, serving Tamil Nadu Police Services. Further, one Dr.N.Saichandran was examined as PW3 and he had issued Ex.P15/disability certificate by fixing the disability at 30%.

6(b). On a perusal of the documentary evidence viz., Ex.P10/Discharge summary, coupled with Ex.P15/disability certificate, it is seen that the claim petitioner has suffered left foot injuries have not united properly, resulting in restriction of movements and malunion, the grade III open fracture 2nd and 3rd metatarsals of left foot with degloving injury over the dorsum of left foot.

6(c). Accordingly, the Tribunal has fixed the disability at 30% and has awarded a sum of Rs.1,000/- per one percentage disability as the accident is of the year 2004.

6(d). Accordingly, this Court finds that the disability fixed by the Tribunal is just and proper and inclined to awarded a sum of Rs.1,500/- per one percentage disability and hence, the compensation awarded under the head of disability is calculated as Rs.1,500/- x 30% = Rs.45,000/-

7. On a perusal of Ex.P10/discharge summary, it is seen that the appellant herein/claim petitioner was taken treatment as inpatient from 22.08.2004 to 07.10.2004 and hence, he is entitled for attendant charges for a sum of Rs.15,000/-.

8. On a perusal of Ex.P14/medical leave particulars, it is seen that the Medical Board had issued the fitness



certificate and as per the fitness certificate, the appellant herein/claim petitioner was on leave from the date of the accident i.e., on 23.08.2004 and resumed the duty on 06.05.2005 and accordingly, he was granted medical leave but for the accident, he could not have availed the medical leave and therefore, he is entitled for loss of earning in respect of medical leave for a period of nine months. Accordingly, as per Ex.P12/salary certificate, the claim petitioner was earning a sum of Rs.7,100/- and hence, compensation under the head of loss of earning capacity during the period of treatment is calculated as under:

$$\text{Rs.7,100/-} \times 9 \text{ months} = \text{Rs.63,900/-}$$

Accordingly, compensation under various heads are enhanced as under:

S.No.	Description	Amount awarded by the Tribunal(in Rs.)	Amount awarded by this Court (in Rs.)
1	Loss of earning capacity during treatment	10,000/-	63,900/-
2	Transportation charges	2,000/-	10,000/-
3	Nutrition and extra nourishment	1,500/-	10,000/-
4	Attendant Charges	---	15,000/-
5	Damages to clothes	500/-	10,000/-
6	Pain and suffering	5,000/-	25,000/-
8	Permanent disability	30,000/-	45,000/-
9	Loss of amenities	---	15,000/-
	Total	49,000/-	1,93,900/-

Hence, compensation awarded by the Tribunal is enhanced from Rs.49,000/- to Rs.1,93,900/-(Rupees One Lakh Ninety Three Thousand Nine Hundred Only).

9. In the result,

(a) This Civil Miscellaneous Appeal is partly allowed to the limited extent as indicated above.

(b) The first respondent herein is directed to deposit the enhanced compensation amount as awarded by this court to the credit of MCOP.No.4192 of 2004, on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai, within a period of eight weeks from the date of receipt of a



copy of this judgment, less the amount already deposited, if any.

(c) The enhanced award amount will carry interest at the rate of 7.5% per annum from the date of filing of the petition till the date of payment.

(d) On such deposit, the appellant herein/claim petitioner is permitted to withdraw the enhanced award amount less the amount already withdrawn, if any.

(e) The claimant shall pay necessary Court fee, if any, on the enhanced compensation.

(f) No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Chief Small Causes Court at Chennai.
2. The Section Officer,
v.R. Section,
High Court,
Madras - 104.

+1cc to Mr.T.G.Balachandran, Advocate, S.R.No.24154

C.M.A.NO.1657 OF 2015

NRL(CO)
PBS/08/10/2021