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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.2.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.1757 of 2012

P.Murali

...Petitioner/Appellant

..Vs..

1. C.Saraswathy

2. National Insurance Co. Ltd.,
No.35, North Usman Road,
T.Nagar, Chennai - 600 017.
(R1-Remained Exparte)

...Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 6.1.2012 made in M.C.O.P.No.1340 of 2007 on the file of IV Small Causes Court (Motor Accidents Claims Tribunal), Chennai

For Appellant	: Mr.N.M.Muthurajan
For Respondent No.2	: Mrs.K.Saraswathi for Mr.C.R.Krishnamoorthy
For Respondent No.1	: Notice unserved R1-Exparte

JUDGMENT

Dissatisfied with the award, dated 6.1.2012 passed M.C.O.P.No.1340 of 2007, by the Motor Accident Claims Tribunal, Chennai, the claimant is before this Court for enhancement of Compensation awarded by the tribunal.

2. It is the case of the claimant that on 26.02.2007 at about 12.30 p.m., while the appellant was riding motorcycle bearing registration No.TN-10-E-5883 from Kodambakkam to Porur along Arcot road and he was proceeding opposite to Andhra Bank, Valasaravakkam, a van bearing registration No.TN-10-M-0264 was driven by its driver in a rash and negligent manner from the opposite direction and hit against the motorcycle, thereby caused accident, resulting in the appellant sustained grievous injuries. The appellant has filed a claim petition before the Tribunal, claiming Rs.6,00,000/- as compensation.



3 On the side of the petitioner, P.W.1 to 3 were examined and Ex.P1 to P14 were marked. No witness was examined on the side of the respondents or any document was marked on the side of the respondents. The Tribunal, based on the oral and documentary evidence, has awarded Rs.2,29,800/- 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 45% x 2,000/-	90,000/-
Pain and sufferings	45,000/-
Loss of income	27,000/-
Transportation	3,000/-
Extra Nourishment	5,000/-
Damage to clothing	1,000/-
Medical expenses	48,800/-
Attendant charges	10,000/-
Total :	2,29,800/-

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 appellant/Insurance Company and the learned counsel appearing for the respondents/claimants and perused the materials available on record.

5. The learned counsel appearing for the appellant submitted that the tribunal failed to consider the supporting documents filed by the appellant for grant of compensation. To prove the claim of the appellant, medical bills, medical records pertaining to disability and other documents were filed. However, without considering the said documents, the tribunal awarded inadequate compensation to the petitioner.

6.The learned counsel appearing for the respondent/Insurance Company opposed for enhancement of compensation. The tribunal has considered in detail, the claim of the petitioner and also considered the documents relied upon by the appellant and determined the compensation amount. Therefore, there is no warrant to interfere with the award of the tribunal.

7. Firstly, the tribunal has fixed a sum of Rs.27,000/- towards loss of income for a period of six months. According to



the learned counsel for the appellant, he is entitled for Rs.45,000/-. There is no supporting documents produced by the appellant before the tribunal for loss of income during the treatment period. Therefore, the compensation towards loss of income fixed by the tribunal is confirmed. Insofar as the other heads are concerned, no amount was awarded towards loss of amenities and inadequate compensation awarded under other heads like Extra Nourishment, Transportation, future medical expenses, attendant charges and continuing permanent disability. This Court is inclined to enhance the compensation awarded by the tribunal. Accordingly, the award of the tribunal is modified as follows:

Heads	Compensation Awarded by the Tribunal Rs.	Compensation enhanced/ modified by this Court (Rs.)
Permanent disability 45% x 2000/-	90,000/-	90,000/-
Pain and sufferings	45,000/-	45,000/-
Loss of income	27,000/-	27,000/-
Transportation	3,000/-	5,000/-
Extra Nourishment	5,000/-	10,000/-
Damage to clothing	1,000/-	1,000/-
Medical expenses	48,800/-	48,800/-
Attendant charges	10,000/-	15,000/-
Loss of amenities	--	10,000/-
Total :	2,29,800/-	2,51,800/-

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

8. It is brought to the notice of this Court that the entire award amount passed by the tribunal has been deposited before the tribunal. The respondent/Insurance company is directed to deposit the enhanced amount alone, 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. On such deposit being made by the respondent/Insurance Company, the claimant/appellant is entitled to withdraw the amount by filing appropriate application.



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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The IV Small Causes Court
(Motor Accidents Claims Tribunal), Chennai

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

+1CC to Mr.N.M.Muthurajan, Advocate, Sr.No.7669

Civil Miscellaneous Appeal
No.1757 of 2012

CA (CO)
K.RK. (07.09.2021)