



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.1183 OF 2016

M.Shanmugam

...Appellant/
Petitioner

Vs

1. M/s.UCO Bank,
328, Thambu Chetty Street,
Chennai - 1.
2. M/s.National Ins.Co.Ltd.,
46, Moore Street, Regina Mansion,
III Floor, Chennai - 1.

... Respondents/
Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree made in MCOP.No.3224/2007 on the file of the Motor Accident Claims Tribunal, IV Judge, at Chennai dated 22nd day of December 2015.

For Appellant : Mr.T.G.Balachandran

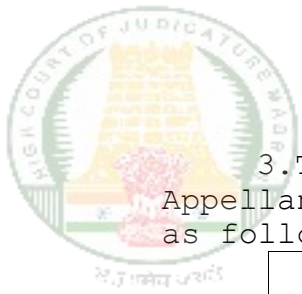
For Respondents: Mr.V.Sudhakar for R1 - NA
Mr.C.R.Krishnamurthy for R2

J U D G M E N T

(This case was heard through Video Conferencing)

This appeal has been filed by the claimant seeking for enhancement of compensation under the impugned Award dated 22.12.2015 passed by the Motor Accident Claims Tribunal, IV Court of Small Causes at Chennai in M.C.O.P.No.3224 of 2007.

2.The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this appeal seeking for enhancement.



3.The details of the compensation awarded to the Appellant/claimant by the Tribunal under the impugned Award are as follows:

Head	Amount awarded by the Tribunal
Disability	Rs.30,000
Pain and suffering	Rs.10,000
Extra nourishment	Rs.5,000
Transport to Hospital	Rs.1,000
Damages to clothes	Rs.1,000
Attender charges	Rs. 500
Medical expenses	Rs.7,530
Future medical expenses	Rs.2,000
Loss of income	Rs.6,500
Loss of amenities	Rs.5,000
Total	Rs.68,530/-

4.Heard Mr.T.G.Balachandran, learned counsel for the Appellant and Mr.C.R.Krishnamurthy, learned counsel for the second respondent.

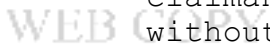
5.The Appellant/claimant has sustained the following injuries:

- (a) Fracture of right hand wrist
- (b) Chest injury
- (c) Injury over right eye and ear
- (d) Multiple injuries all over his body.

The nature of injuries sustained by the Appellant/claimant has not been disputed by the respondent before the Tribunal.

6.Before the Tribunal, the Appellant/claimant has filed 8 documents which were marked as Exs.P1 to P8 and 2 witnesses were examined namely the Appellant/claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the respondents, neither any document was filed nor any witness examined before the Tribunal.

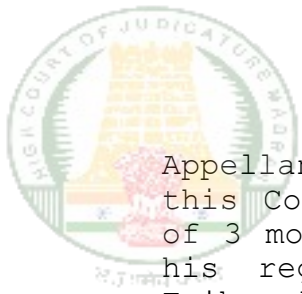
7.As seen from the evidence available on record, the Appellant/claimant was working as a Wood Polish Contractor and in his claim petition, he has pleaded that he was earning Rs.10,000/- per month at the time of accident. However, the Tribunal has fixed the notional monthly income of the Appellant/claimant at Rs.6,500/- which in the considered view of



8. The Doctor has assessed the disability of the Appellant/claimant at 30%. However, the Tribunal under the impugned Award without any basis has reduced the said assessment to 10%. No reasons have been given by the Tribunal for the said reduction.

10. The Tribunal has awarded a disability compensation of Rs.30,000/- calculated at Rs.3,000/- per percentage of disability for the 10% disability assessed by the Tribunal. This Court is of the considered view that the Tribunal ought not to have assessed the disability compensation at Rs.3,000/- per percentage of disability since the accident happened as early as in the year 2007. In respect of accident for the year 2007, it is the settled practice to assess the disability compensation at Rs.2,000/- per percentage of disability. Since the Tribunal has erroneously assessed the disability compensation at Rs.3,000/- per percentage of disability, the same is reduced by this Court at Rs.2,000/- per percentage of disability. Accordingly, the disability compensation is fixed at Rs.60,000/- calculated at Rs.2,000/- per percentage of disability for the 30% disability assessed by this Court.

12. Insofar as the compensation awarded by the Tribunal towards loss of income at Rs.6,500/- is concerned, the same in the considered view of this Court is low. After giving due consideration to the nature of injuries sustained by the

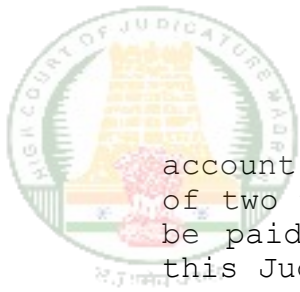


Appellant/claimant, avocation and his period of hospitalization, this Court is of the considered view that atleast for a period of 3 months the Appellant/claimant would have been unable to do his regular work. Hence the compensation awarded by the Tribunal to the Appellant/claimant towards loss of income is enhanced to Rs.19,500/- calculated at Rs.6,500/- for a period of 3 months.

14.For the foregoing reasons, the compensation awarded by the Tribunal under the impugned Award is enhanced to Rs.1,33,030/- from Rs.68,530/- by this Court as detailed hereunder:

Head	Amount awarded by the Tribunal	Modified/enhanced by this Court
Disability	Rs.30,000	Rs.60,000 (30% x 2,000)
Pain and suffering	Rs.10,000	Rs.15,000
Extra nourishment	Rs.5,000	Rs.5,000
Transport to Hospital	Rs.1,000	Rs.5,000
Damages to clothes	Rs.1,000	Rs.1,000
Attender charges	Rs.500	Rs.5,000
Medical expenses	Rs.7,530	Rs.7,530
Future medical expenses	Rs.2,000	Rs.5,000
Loss of income	Rs.6,500	Rs.19,500 (6,500 x 3)
Loss of amenities	Rs.5,000	Rs.10,000
Total	Rs.68,530/-	Rs.1,33,030

14.In the result, the appeal is partly allowed. The Second respondent is directed to deposit the modified award amount of Rs.1,33,030/- as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P.No.3224 of 2007 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes at Chennai within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank



account of the appellant /claimant through RTGS, within a period of two weeks thereafter. The requisite Court fee, if any has to be paid by the appellant/claimant before receiving the copy of this Judgment. No costs.

WEB COPY

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

pam

To

1. The Motor Accident Claims Tribunal
IV Court of Small Causes at Chennai.
2. The Section Officer
V.R.Section, High Court of Madras.

+1cc to Mr.C.R.Krishnamurthy, Advocate, S.R.No.30443
+1cc to Mr.V.Sudhakar, Advocate, S.R.No.30616
+1cc to Mr.T.G.Balachandran, Advocate, S.R.No.30131

C.M.A.No.1183 of 2016

MA(CO)
CS/18/11/2021