



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1946 of 2015

V.L.Visanth

.... Appellant/Petitioner

Versus

1. G. Seetharaman

2. IFFCO Tokio General Insurance Company Ltd.,
No.28, North Usman Road,
T.Nagar,
Chennai - 34.

....Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 06.06.2015 made in M.C.O.P. No.777 of 2012 on the file of the Motor Accidents Claims Tribunal (III Additional District Court), Poonamallee.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : Mr.J.Michael Visuvasam for R2

R1 - No such person

JUDGMENT

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 23.06.2015 passed by the Motor Accident Claims Tribunal (III Additional District Court, Poonamallee), Chennai. in MCOP No.777 of 2012.

2. The Tribunal under the impugned award directed the second respondent / Insurance Company to pay the appellant a compensation of Rs.12,34,725/- for the injuries sustained by him as a result of an accident caused by a vehicle owned by the



first respondent and insured with the second respondent.

3. The appellant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this appeal seeking for enhancement.

4. The details of compensation awarded by the Tribunal are as follows:

Heads	Amount awarded by the Tribunal (Rs.)
Disability at 50%	1,00,000/-
Pain and suffering	50,000/-
Medical bills	10,74,725/-
Transportation	5,000/-
Extra nourishment	5,000/-
Total	12,34,725/-

5. Heard Mr.K.Varadhakamaraj, learned counsel for the appellant and Mr.J.Michael Visuvasam, learned counsel for the 2nd respondent / Insurance Company. Since no adverse orders are going to be passed against the 1st respondent, notice to the 1st respondent is dispensed with.

6. The appellant was a BDS student at Thai Moogambigai college at Mogappair at the time of the accident, which happened on 30.07.2012. He has filed the college ID card and college breakup certificate, which were marked as Exs.P5 and P6 to prove that he was a first year BDS student.

7. The appellant / claimant sustained the following injuries as a result of an accident caused by a vehicle insured with the second respondent / Insurance Company.

- Grade III C Compound comminuted fracture both bones (Tibia and Fibula) in right leg
- Crush injury in right foot
- Comminuted fracture right distal humerus and Soft Tissue degloving and haematoma right arm

8. The Doctor (PW2), who examined the appellant assessed the disability of the appellant / claimant at 67%. Six surgeries were performed on the appellant on various dates at Apollo Hospital and there is also shortening of the appellant / claimant's right leg on account of the injuries sustained by him as a result of the accident.



9. The Tribunal under the impugned award has awarded a disability compensation of Rs.1,00,000/- calculated at Rs.2,000/- per percentage for the 50% disability assessed by the Tribunal. The Tribunal after giving due consideration to the disability certificate issued by the Doctor, which was marked as Ex.P8 has assessed the permanent disability of the appellant / claimant at 50%. This Court is of the considered view that though the assessment of the permanent disability at 50% by the Tribunal may be correct, the Tribunal ought to have awarded a higher disability compensation considering the year of the accident, which happened on 30.07.2012. This Court is of the considered view that the disability compensation to the appellant / claimant has to be enhanced to Rs.1,50,000/- calculated at Rs.3,000/- for 50% disability instead of Rs.2,000/- per percentage of disability fixed by the Tribunal. Accordingly, the disability compensation is enhanced to the appellant from Rs.1,00,000/- to Rs.1,50,000/-.

10. Similarly, this Court is of the considered view that the compensation awarded by the Tribunal to the appellant / claimant towards pain and suffering, extra nourishment, transportation to hospital will also have to be enhanced, considering the nature of injuries sustained by the appellant. Accordingly, this Court enhances the compensation from Rs.50,000/- to Rs.75,000/- towards pain and suffering; from Rs.5,000/- to Rs.25,000/- towards extra nourishment; from Rs.5,000/- to Rs.25,000/- for transportation costs.

11. The Tribunal has also not awarded any compensation towards damage to clothing, Attender charges and loss of amenities, which the appellant /claimant is legally entitled to as per the settled law. Accordingly, this Court awards a compensation of Rs.3,000/- towards Damage to clothing; Rs.25,000/- towards attender charges considering the long period of hospitalisation to the appellant / claimant and Rs.50,000/- towards loss of amenities. The appellant / claimant has also lost one full year as a Student undergoing BDS course and therefore, he has to be adequately compensated for the loss of education and loss of earning for his delayed employment due to the loss of education for a period of one year. This Court after giving due consideration to the materials and evidence available on record and after taking judicial note of the fact that the appellant has admittedly lost one year of education due to the injuries sustained by him is of the considered view that a sum of Rs.50,000/- will have to be awarded as compensation to the appellant / claimant for loss of education and another sum of Rs.50,000/- will have to be awarded towards loss of earnings for the delay in getting employment after completion of his BDS course at Rs.50,000/-.



12. Insofar as the medical expenses are concerned, the Tribunal has awarded a sum of Rs.10,74,725/- based on the bills produced by the appellant / claimant before the Tribunal and the same is also confirmed by this Court.

13. For the foregoing reasons, the award of the Tribunal is hereby modified in the following manner :

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Disability at 50% *Rs.2,000/- x 50% #Rs.3,000/- x 50%	1,00,000/- *	1,50,000/- #
Pain and suffering	50,000/-	75,000/-
Medical bills	10,74,725/-	10,74,725/-
Transportation	5,000/-	25,000/-
Extra nourishment	5,000/-	25,000/-
Damage to clothing	-	3,000/-
Attender charges	-	25,000/-
Loss of amenities	-	50,000/-
Loss of education	-	50,000/-
Loss of earnings for getting delayed employment	-	50,000/-
Total	12,34,725/-	15,27,725/-

14. In the result, the appeal filed by the appellant / claimant, stands partly allowed by enhancing the compensation from Rs.12,34,725/- to Rs.15,27,725/-, as indicated above. No costs.

15. The second respondent / Insurance Company is directed to deposit the entire award amount 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.777 of 2012 on the file of the Motor Accidents Claims Tribunal (III Additional District Court), Poonamallee, within a period of four 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. Necessary Court fee, if any has to be paid by the appellant before receiving the copy of this Judgment.

WEB COPY

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. Motor Accidents Claims Tribunal,
The III Additional District Judge,
Additional District Court,
Poonamallee.
2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai - 104.

+1cc to M/s.K.Varadhakamaraj, Advocate, S.R.No.23185

+1cc to Mr.J.Michael Sivaraman, Advocate, S.R.No.22982

C.M.A.No.1946 of 2015

RSI(CO)
SU(30/09/2021)