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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1473 of 2016

S.Deepan Chakravarthi

...Appellant

versus

1.S.Sivakumar

2.The Branch Manager,
Reliance General Insurance Co. Ltd.,
Reliance House,
6th Floor,
Nungambakkam,
Chennai - 6.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 18.02.2016 in MCOP No.3044 of 2013 passed by the Motor Accident Claims Tribunal (IV Small Causes Court), Chennai.

For Appellant : Mr.R. Nalliyappan

For Respondents : Mr.S.Arunkumar for R2
R1 - Exparte

JUDGMENT

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 18.02.2016 passed by the Motor Accident Claims Tribunal (IV Small Causes Court), Chennai in MCOP No.3044 of 2013.

2. The Tribunal under the impugned award directed the second respondent / Insurance Company to pay the appellant / claimant a compensation of Rs.87,000/- together with interests and costs as detailed below :-



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Heads	Amount awarded by the Tribunal (Rs.)
Disability	30,000/-
Pain and suffering	20,000/-
Extra nourishment	5,000/-
Transport to Hospital	5,000/-
Damages to clothes	1,000/-
Attender charges	5,250/-
Medical expenses	2,500/-
Loss of income	13,000/-
Loss of amenities	5,000/-
Total	86,750/-
Rounded to	87,000/-

3. The appellant / claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award has filed this appeal seeking for enhancement.

4. Heard Mr.R. Nalliyappan, learned counsel for the appellant / claimant and Mr.S. Arunkumar, learned counsel for the 2nd respondent / Insurance Company. The first respondent remained ex-parte both before the Tribunal and before this Court.

5. This Court has perused and examined the impugned award before the Tribunal.

6. Before the Tribunal, the appellant / claimant has filed 9 documents, which were marked as Ex.P1 to Ex.P9 and two witnesses were examined on his side viz, the appellant / claimant himself as PW1 and the Doctor, who examined him as PW2. However, on the side of the respondents, neither any witness was examined nor any document was filed before the Tribunal.

7. The appellant / claimant sustained the following injuries on 16.11.2012 caused by a vehicle insured with the second respondent :

1. Fracture over left foot.
2. Digloving injury over left foot
3. Abrasions over right hand
4. Contusion over chest and hip
5. Multiple injuries all over the body.



8. The appellant / claimant in his claim petition has pleaded that he was a Cleaner and aged 21 years at the time of the accident and was earning Rs.10,000/- p.m. at the time of the accident. The Doctor (PW2), who examined the appellant / claimant has also issued a disability certificate (Ex.P8) which reveals that the appellant / claimant has sustained 40% disability. However, the Tribunal on its own without any basis has reduced the disability to 10% from 40%. The appellant / claimant was hospitalised in Government Stanley Hospital, Chennai, for the period from 16.11.2012 to 03.12.2012 and he was re-admitted in the same hospital from 25.04.2013 to 27.04.2013, as seen from the discharge summary (Ex.P3) issued by the said Hospital. The period of hospitalisation of the appellant / claimant on account of the injuries sustained by him as a result of the accident has also not been disputed by the second respondent / Insurance Company, as seen from the evidence available on record. This being the case, the Tribunal ought not to have assessed the disability at 10% without any basis. Therefore, this Court after giving due consideration to the injuries sustained by the appellant / claimant as well as the disability certificate (Ex.P8) fixes the disability of the appellant / claimant at 30%. Accordingly, the compensation awarded under the head disability is enhanced from Rs.30,000/- to Rs.90,000/- calculated at Rs.3,000/- per percentage of disability for the 30% disability.

9. The Tribunal has also awarded a lesser compensation of Rs.5,000/- towards Transport to hospital and Rs.5,250/- towards Attender charges, which will have to be necessarily enhanced, considering the nature of injuries sustained by the appellant / claimant as well as the period of his hospitalisation. Accordingly, this Court enhances the compensation towards Transport to hospital from Rs.5,000/- to Rs.10,000/- and for Attender Charges from Rs.5,250/- to Rs.10,000/-.

10. Insofar as the compensation awarded by the Tribunal under various other heads viz., Rs.20,000/- towards pain and suffering; Rs.5,000/- towards Extra nourishment; Rs.1,000/- towards Damages to clothes; Rs.2,500/- towards medical expenses; Rs.13,000/- towards Loss of income and Rs.5,000/- towards loss of amenities are concerned, this Court is of the considered view that the same cannot be considered to be low as alleged by the appellant.

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



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Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Disability	30,000/-	90,000/-
Pain and suffering	20,000/-	20,000/-
Extra nourishment	5,000/-	5,000/-
Transport to Hospital	5,000/-	10,000/-
Damages to clothes	1,000/-	1,000/-
Attender charges	5,250/-	10,000/-
Medical expenses	2,500/-	2,500/-
Loss of income	13,000/-	13,000/-
Loss of amenities	5,000/-	5,000/-
Total	86,750/-	
Rounded to	87,000/-	1,56,500/-

12. In the result, the appeal filed by the appellant / claimant, stands partly allowed by enhancing the compensation from Rs.87,000/- to Rs.1,56,500/- as indicated above. No costs.

13. 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 MCOP No.3044 of 2013 passed by the Motor Accident Claims Tribunal (IV Small Causes Court), Chennai, 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. The requisite Court fee, if any has to be paid by the appellant/claimant before receiving the copy of this Judgment.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi2



To :

1.The IV Judge,
IV Small Causes Court,
Motor Accident Claims Tribunal,
Chennai.

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

+1cc to Mr.S.Arunkumar, Advocate Sr No.26945

C.M.A. No.1473 of 2016

AKII (CO)
PR (17/11/2021)