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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.430 of 2015

Rajkamal @ Kamal

.. Appellant/Claimant

Vs.

1.R. Gomathi

2.The New India Assurance Co., Ltd.,
No.4, Muthulinga Reddy Street,
Tambaram West, Chennai - 45.

.. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decretal order dated 18.02.2013 in M.C.O.P.No.4014 of 2008 on the file of the Motor Accidents Claims Tribunal, Court of Small Causes, Chennai.

For Appellant : Mr. A.N. Viswanatha Rao
For R1 : No Appearance
For R2 : Ms. R. Sreevidhya

J U D G M E N T

The award dated 18.02.2013 passed in M.C.O.P.No.4014 of 2008, is under challenge in the present civil miscellaneous appeal.

2. The claimant is the appellant herein and the appeal is filed seeking enhancement of compensation. The appellant / claim petitioner filed MCOP.No.4014/2008 for claiming compensation for injuries sustained in road accident. After trial, the Tribunal has awarded a sum of Rs.3,20,518/- with interest at the rate of 7.5% per annum from the date of petition. Aggrieved by the same, the present appeal has been filed by the appellant/claimant, for enhancement of compensation.

3. The factum of the accident and the manner of the accident and negligence on the part of the driver of the first respondent which was insured with the second respondent / New India Assurance Company Limited are not in dispute and hence, the finding rendered in this regard by the Motor Accident Claims



Tribunal are hereby confirmed.

4. On the factum of quantum of compensation petitioner counsel is heard. At the time of the accident, the appellant / claim petitioner was aged about 19 years, working as Collection Executive in Nandanam, Chennai, earning about Rs.6,500/- per month. The petitioner has not filed any document to prove the alleged income earned by him. Based upon the nature of the evidence and nature of the employment, the Tribunal has rightly arrived at Rs.4,500/- at the time of accident which took place in the year 2007.

5. After perusing the heads of compensation, I find that the amount awarded towards loss of earning during treatment, is very low. Hence, the same is enhanced to Rs.13,500/-. Medical expenses, pain and suffering, loss of amenities, loss of future medical expenses, loss of earning power and permanent disability as awarded by the tribunal appear to be just and reasonable. Attendant charges is enhanced to Rs.10,000/- from 3000, transport to hospital is enhanced to Rs.10,000/- from Rs.3000/-, extra nourishment is enhanced to Rs.10,000/- from Rs.3000/- and as stated supra loss of earning during treatment is enhanced to Rs.13,500 from 4500/-.

6. Thus, the compensation awarded by the Tribunal is enhanced from Rs.3,20,518/- to Rs.3,50,518/- the details of which read as follows:

Head	Compensation awarded by the Tribunal (Rs.)	Compensation enhanced by this Court (Rs.)
Loss of earning during treatment period	4,500/-	13,500/-
Medical Expenses	67,018/-	67,018/-
Pain and Suffering	40,000/-	40,000/-
Loss of Amenities	10,000/-	10,000/-
Future Medical Expenses	10,000/-	10,000/-
Loss of Earning Power	80,000/-	80,000/-
Attender Charges	3,000/-	10,000/-
Transport to hospital	3,000/-	10,000/-
Extra Nourishment	3,000/-	10,000/-
Permanent Disability	1,00,000/-	1,00,000/-
Total	3,20,518/-	3,50,518/-

7. Accordingly, the modified compensation of Rs.3,50,518/- is to be paid to the appellant along with the interest from the



date of accident. However, the claimant will not be entitled to interest on the award amount for the period of delay as per order dated 24.02.2015. The second respondent / New India Assurance Company Ltd., is directed to deposit the modified award amount of Rs.3,50,518/- along with the interest, within a period of four weeks, from the date of receipt of copy of the judgment and on such deposit, the appellant-claimant is permitted to withdraw the entire award amount by filing an appropriate application and the payments are to be made through RTGS. Thus, the award dated 18.02.2013, passed in M.C.O.P.No.4014/2008, stands modified and C.M.A.No.430/2015 stands allowed in part.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

AT

To

1.The Motor Accidents Claims Tribunal,
Court of Small Causes, Chennai.

+1cc to Mrs.R.Sree Vidhya, Advocate, S.R.No.9697

C.M.A.No.430 of 2015

EV(CO)
CB(21/09/2021)