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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.01.2021

PRONOUNCED ON : 01.02.2021

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN, J.

C.M.A.No.457 of 2015

Manikandan

....Appellant/Petitioner

Vs

1. Balaji Ware Housing Company Private Ltd,
C & F Agents,
Godown Salt Coatures Clearing Agency,
Room near Elephnat Gate,
Chennai - 112.

(R1 remained exparte before the Tribunal his presence may be dispense with)

2. The Branch Manager,
The Oriental Insurance Co. Ltd,
No.75, Krishna Street,
Thiruvannamalai.

....Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of M.V.Act, 1988, against the Judgement and Decree dated 28.10.2009 and made in M.A.C.T.O.P.No.602 of 2006 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Thiruvannamalai.

ForAppellant : Mr.T.Ferry Chellaraja

For Respondents : Mr.K.Vinod for R2.
R1 - Exparte

J U D G M E N T

Claimant is the appellant herein, seeking enhancement of compensation awarded in M.C.O.P.No.602 of 2006, Motor Accident Claims Tribunal / Principal Subordinate Judge, Thiruvannamalai, the appellant / claimant has filed the above C.M.A.No.457 of 2015.

2. It is the case of the appellant/claimant that on 24.06.2005 at about 6.00 p.m. when the petitioner was walking on the left side of the Ottari K.H.Road, a lorry bearing Registration No. TN 04 J 5106 was driven in a rash and negligent manner and dashed against the appellant/claimant.



Due to the accident, the appellant suffered severe injuries.

3. The appellant/claimant filed an MCOP in M.C.O.P.No.602 of 2006 before the Tribunal, Principal Subordinate Court, Tiruvannamalai. The lower Court has rendered a compensation of Rs.56,000/- including all the amenities. Having not satisfied with award, the appellant is before this Court.

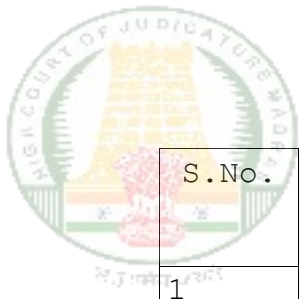
4. Heard the learned counsel for the appellant and learned standing counsel for the second respondent.

5. The factum of the accident, manner of the accident and rash and negligence on the part of the driver of the first respondent vehicle having not been challenged, the same is hereby confirmed. On the point of quantum, oral evidence and documentary evidence are considered.

6. On perusal of Ex.P3 - Accident Register, Ex.P6 - Disability Certificate along with deposition of PW2 - Doctor, I find that PW2-Doctor has fixed the disability at the rate of 30% and the same was confirmed by the Tribunal. This Court considers that the same does not warrant any interference.

7. It is to be stated that the appellant was eking out his livelihood as an auto driver and he was earning more than a sum of Rs.6,000/- per month. The Doctor who examined the petitioner had issued a Disability Certificate which has been marked as Ex. P6 in which the disability was assessed as 30%. The evidence of the Doctor discloses that the petitioner had sustained fractures on his left leg ankles and left foot. Even after proper medical treatment, the broken bones had joined wrongly causing malunion and deformity. As a result of the serious damage caused to his left foot and ankle, he is limping and his left ankle and left leg foot movements have been restricted and reduced considerably. Accordingly, the 30% disability is hereby confirmed.

8. As per the evidence of PW1 who was working as an Auto driver, the monthly income of PW1 is fixed at Rs.3,000/- per month and accordingly, Rs.3,000 x 12 x 18 x 30% is awarded towards loss of income. The compensation towards 30% disability is reassessed. The compensation towards the Pain and Suffering is enhanced from Rs.2,160/- to Rs.10,000/-. Compensation towards Transportation expenses is fixed at Rs.10,000/-. Further, on the heads of Medical Expenses Rs.10,000/-, Extra Nourishment Rs.10,000/-, Attendant Charges Rs.10,000/-, Loss of Amenities Rs.10,000/-, loss of income during the treatment period Rs.6,000/- (3,000 x 2) is awarded and the compensation is enhanced from Rs.56,000/- to Rs.2,60,400/- (Rupees Two Lakhs Sixty Thousand Four Hundred Only).



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S.No.	Description	Amount awarded by the Tribunal	Amount awarded by this Court (in Rs.)
1	Permanent Disability	Rs.51,840.-	---
2	Pain and Sufferings	Rs.2,160/-	10,000/-
3	Transportation Expenses,	Rs.2,000/-	10,000/-
4	Nutrition and extra nourishment	---	10,000/-
5	Medical Expenses	---	10,000/-
6	Attendant Charges	---	10,000/-
7	Loss of Amenities	---	10,000/-
8	Loss of Income (3000x12x18x30%)	---	1,94,400/-
9	Loss of income during treatment period (3,000x2)	---	6,000/-
	Total	Rs.56,000 /-	2,60,400/-

9. In the result:-

(i) This Appeal is partly allowed to the extent indicated above. The amount of Rs.56,000/- awarded by the Tribunal is hereby enhanced to Rs.2,60,400/- (Rupees Two Lakhs Sixty Thousand Four Hundred Only). Additional Court fee if any, has to be paid.

(ii) The second respondent/Insurance Company is directed to deposit the entire compensation, including interest at 7.5 % from the date of claim petition till the date of payment, and costs, as awarded by this Court, within a period of eight weeks from the date of receipt of a copy of this judgement, after deducting the amount, if any already deposited.

(iii) On such deposit, the claimant is permitted to withdraw the compensation amount in accordance with law. No costs.

Sd/-
Deputy Registrar(Lok Adalat)

//True copy//

Sub Assistant Registrar



To

1. The Motor Accident Claims Tribunal,
Principal Subordinate Judge,
Thiruvannamalai.

2. The Section Officer,
VR Section,
High Court, Madras- 104.

+1cc to Mrs.Malar, Advocate SR.No.5041

+1cc to Mrs.Elveera Ravindran, Advocate SR.No.5403

C.M.A.No.457 of 2015

GMR (CO)
GMY (22/09/2021)