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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.359 of 2020

(Through Video Conferencing)

Subramani

...Appellant/Claimant

Vs.

1.Murugesan

2.The United India Insurance Company Limited,
Divisional Office HUB Ranga Building,
Peramanur Main Road,
Peramanur,
Salem - 636 007.

...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 20.09.2019 made in M.C.O.P.No.1844 of 2016, on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge No.II, Salem.

For Appellants : Mr.T.S.Arthanareeswaran
For R1 : No Appearance
For R2 : Mr.D.Bhaskaran

JUDGMENT

The Claimant is the appellant in this appeal. He is aggrieved by the compensation awarded by the Tribunal in its judgment and decree dated 20.09.2019 made in MACTOP.No.1844 of 2016 passed by the Motor Accident Claims Tribunal, Special Subordinate Judge No.II, Salem. In this appeal, the appellant seeks to claim enhancement of compensation.

2. The learned counsel for the appellant submits that the claimant is aged about 45 years and he was working as driller in a borewell vehicle and also as an agriculturist coolie. He further submits that there is no dispute in the manner that the accident took place. The appellant had driven the motor cycle



with two other persons as pillion rider and met with an accident on a junction when the motor cycle was hit by the insured car namely L.M.V. Tavera car bearing Registration No.TN-30 AM-5043.

3. The learned counsel for the appellant further submitted that the Tribunal has awarded compensation on percentage basis at Rs.3,000/- per percent and has further deducted 45% towards contributory negligence of the appellant on the ground that the appellant did not possess valid driving license nor he was authorised to carry 2 persons apart from him as pillion in the motor cycle. In this appeal, the appellant has questioned the deduction of 45% towards contributory negligence and the loss of income of the appellant who was earning a sum of Rs.25,000/- per month.

4. The Tribunal has awarded a sum of Rs.2,20,441/- after deducting 45% from the over all compensation of Rs.4,00,802/-. The computation of the compensation in the impugned judgement and decree is as below :

Serial No	Heads of Compensation	Awarded by the Tribunal
1.	Loss of Permanent Disability	Rs.75,000/-
2.	Pain and Suffering	Rs.50,000/-
3.	Loss of Amenities	Rs.50,000/-
4.	Medical Expenses	Rs.1,30,802/-
5.	Loss of Income	Rs.54,000/-
6.	Transport Expenses	Rs.10,000/-
7.	Extra Nourishment	Rs.20,000/-
8.	Attender Charges	Rs.1,000/-
9.	Loss of Damages of cloth	Rs.1,000/-
	Total	Rs.4,00,082/-

5. Heard the arguments of the learned counsel for the appellant and the learned counsel for the respondent.

6. Considering the same, I am of the view that the Tribunal has come to a fair conclusion. However, this Court is inclined to enhance the compensation. Instead of awarding the compensation at Rs.3,000/- per percent, I am inclined to modify the same at Rs.4,000/- per percentage of permanent disability.



The compensation towards permanent disability is thus enhanced to Rs.1,00,000/-.(Rs.4000 x 25) from Rs.75,000/-(Rs.3,000 x 25). Thus, there shall be an enhancement of Rs.25,000/- to the compensation. The Tribunal has deducted 45% from the overall compensation.

7. Considering the fact that the appellant only did not possess a valid driving license, the deduction for not possessing license cannot be upheld 45%. Therefore deduction towards contributory negligence at 45% is reduced to 25%. The compensation thus awarded to the appellant is re-quantified by deducting 25% from the over all compensation of Rs.4,25,802 (Rs.4,00,082/- + 25,000) as follows:-

$4,25,802 \times 75/100 = \text{Rs.}3,19,351/-$ is rounded off to Rs.3,20,000/-.

8. Accordingly, the 2nd respondent Insurance company is directed to deposit a sum of Rs.3,20,000/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of payment to the credit of MACTOP.No.1844 of 2016 before the Motor Accidents Claim Tribunal, Special Subordinate Judge No.II, Salem, less any amount already deposited within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. On such deposit being made, the appellant is entitled to withdraw the same together with interest accrued thereon, less the amount if any, already withdrawn, by filing suitable application before the Tribunal.

10. This Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

drl



To:

1.The Motor Accidents Claims Tribunal,
Special Subordinate Judge No.II,
Salem.

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

C.M.A.No.359 of 2020

BS (CO)
SP(23/11/2021)