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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2109 of 2016

Dhanesh Kumar

...Appellant / Petitioner

Vs

1.T.Tharsanraja singh

2.Reliance General Insurance Company Ltd.,
Plot No.2054, Anna Nagar,
Chennai-40.

...Respondents / Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 17.09.2014 made in M.C.O.P.No.753 of 2013 on the file of Motor Accident Claims Tribunal, (III Small Causes Court), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : R1-unclaimed
Ms.Bhuvana Sundari for R2

J U D G M E N T

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 17.09.2014 passed by the Motor Accident Claims Tribunal, (Court of Small Causes), Chennai in M.C.O.P.No.753 of 2013.

2.The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this appeal seeking for enhancement.



Court is of the considered view that the disability compensation awarded by the Tribunal to the Appellant/claimant at Rs.80,000/- is low and it has to be enhanced. This Court enhances the disability compensation of the Appellant/claimant at Rs.1,20,000/- calculated at Rs.3,000/- per percentage of disability for the 40% disability suffered by the Appellant/claimant instead of Rs.80,000/- assessed by the Tribunal calculated at Rs.2,000/- per percentage of disability.

6.The Appellant/claimant was a Battery Bank Technician aged 24 years at the time of the accident. The nature of avocation of the Appellant/claimant has also not been disputed by the respondents as seen from the evidence available on record.

7.The accident happened on 05.12.2012. After giving due consideration to the year of the accident and the nature of avocation of the Appellant/claimant, this Court is of the considered view that the fixation of notional monthly income at Rs.6,000/- is low and it has to be enhanced to Rs.8,000/- instead of Rs.6,000/- fixed by the Tribunal.

8.The Tribunal has awarded only a compensation of Rs.6,000/- to the Appellant/claimant towards loss of income during the treatment period which has to be necessarily enhanced considering the nature of injuries sustained by the Appellant/claimant.

9.Since the monthly income of the Appellant/claimant is fixed at Rs.8,000/- by this Court, after giving due consideration to the nature of injuries sustained by the Appellant/claimant, this Court fixes the loss of income of the Appellant/claimant during the treatment period at Rs.24,000/- calculated for a period of three months at Rs.8,000/- per month instead of Rs.6,000/- per month fixed by the Tribunal. Accordingly, the loss of income during the treatment period is enhanced from Rs.6,000 to Rs.24,000/- by this Court.

10.The Tribunal has rightly awarded a sum of Rs.500/- towards damage to clothing, Rs.1,47,618/- towards medical expenses based on the bills submitted by the Appellant/claimant and Rs.25,000/- towards pain and suffering which are confirmed by this Court. However, the Tribunal has awarded a lesser compensation towards transportation cost, extra nourishment and



loss of amenities which has to be necessarily enhanced and the same is enhanced to Rs.10,000/-, Rs.10,000/- and Rs.15,000/- respectively.

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11.The Tribunal has also failed to Award any compensation to the Appellant/claimant towards attender charges as the nature of injuries sustained by him entitles him to claim the same. This Court Awards a compensation of Rs.10,000/- to the Appellant/claimant towards attender charges.

12.For the foregoing reasons, this Court enhances the compensation awarded by the Tribunal from Rs.2,78,118/- to Rs.3,62,118/- as detailed hereunder:

Particulars	Award Amount (Rs.)	Enhanced/modi fied Amount
Loss of income for months (Rs.8,000 x 3 months)	6,000	24,000
Transport to hospital	7,000	10,000
Extra nourishment	7,000	10,000
Damage to clothing	500	500
Medical expenses	1,47,618,	1,47,618,
Loss of amenities	5,000	15,000
Pain and suffering	25,000	25,000
Disability at 40% at Rs.3,000/- per percentage	80,000	1,20,000
Attender charges	-	10,000
Total	Rs.2,78,118/-	Rs.3,62,118/-

13.In the result, the appeal is partly allowed. The second respondent Insurance Company is directed to deposit the modified amount awarded by this Court together with interest at the rate of 7.5% per annum, however, since the appeal has been filed by the Appellant/claimant with the delay of 529 days, the Appellant/claimant is not entitled for any interest for the said period of 529 days and is only entitled for interest for the remaining period after deducting the amount already deposited, if any to the credit of MCOP.No.753 of 2013 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the



amount lying to the credit of MCOP.No.753 of 2013 to the bank account of the Appellant/claimant through RTGS within a period of one week thereafter. No costs.

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Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
(III Small Causes Court),
Chennai.

2.The Section Officer
V.R.Section,
High Court of Madras.

+1cc to Mr.K.Varadha Kamaraj, Advocate SR.No.25749

C.M.A.No.2109 of 2016

MG(CO)
RVM(08/11/2021)