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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.434 of 2021

V. Anbu ... Appellant/Claimant

Vs.

1.R.Keerthivasan
(was set exparte before the Tribunal)

2.Oriental Insurance Co. Ltd.,
Motor Third Party Claims - HUB,
No.216, Prakasam Salai, Broadway,
Chennai 600 108.

3.Tamil Nadu State Express Transport Corporation Ltd.,
rep. By its Managing Director,
Pallavan Salai, Chennai 600 002.
(was set exparte in the Tribunal) ... Respondents/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.02.2020, made in M.C.O.P. No.6343 of 2013, on the file of the II Court of Small Causes, (Motor Accident Claims Tribunal) Chennai.

For Appellant : M/s.P.T.Saleem Fathima

For Respondents: Mr.J.Chandran (For R2)
Mr.K.J.Sivakumar (For R3)

J U D G M E N T

(The matter is heard through Video Conferencing/Hybrid mode)

This appeal has been filed for enhancement of compensation granted by the award dated 26.02.2020, made in M.C.O.P. No.6343 of 2013, on the file of the II Court of Small Causes, (Motor Accident Claims Tribunal) Chennai.



2.The appellant-claimant filed M.C.O.P. No.6343 of 2013, on the file of the II Court of Small Causes, (Motor Accident Claims Tribunal) Chennai, claiming a sum of Rs.25,00,000/- as compensation for the injuries sustained by him in the accident that took place on 27.09.2013.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Tanker Lorry belonging to the 1st respondent and directed the 2nd respondent, as insurer of the offending vehicle, to pay a sum of Rs.3,72,900/- as compensation to the appellant. The Tribunal dismissed the claim petition as against the 3rd respondent-Transport Corporation.

4.Not being satisfied with the amounts awarded by the Tribunal in the award dated 26.02.2020, made in M.C.O.P. No.6343 of 2013, the appellant has come out with the present appeal.

5.The learned counsel appearing for the appellant contended that in the accident, the appellant sustained Grade I, compound fracture medial condyle left tibia and fracture of I, II and III metatarsal right foot, hospitalized twice, underwent two surgeries and took out patient treatment till 24.09.2016. The Medical Board assessed that the appellant suffered 40% permanent disability and he is unable to walk and continue his avocation. The Tribunal ought to have considered the same and adopted multiplier method in awarding compensation towards loss of pecuniary benefits. Due to the injuries sustained in the accident, still pus is oozing out, leg was not yet healed and the appellant was limping. Hence, the Tribunal ought to have awarded more compensation towards loss of amenities. The amounts awarded by the Tribunal towards pain and sufferings, attendant charges, transportation and extra nourishment are meagre and prayed for enhancement of the compensation.

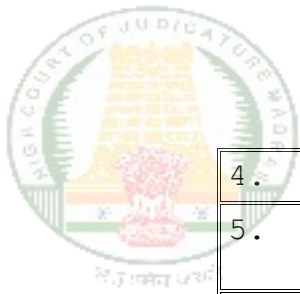
6.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company submitted that the Tribunal accepted the disability certificate issued by the Medical Board and granted compensation at the rate of Rs.3,000/- per percentage for 40% disability. The accident is of the year 2013. The total compensation awarded by the Tribunal under different heads are not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7.The learned counsel appearing for the 3rd respondent-Transport corporation contended that the Tribunal dismissed the



8. Heard learned counsel appearing for the appellant, 2nd respondent-Insurance Company as well as the 3rd respondent-Transport Corporation and perused the materials available on record.

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	1,20,000/-	1,20,000/-	Confirmed
2.	Pain and suffering	50,000/-	50,000/-	Confirmed
3.	Extra nourishment	7,500/-	10,000/-	Enhanced



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4.	Transportation	7,500/-	10,000/-	Enhanced
5.	Damage to clothes	1,000/-	2,000/-	Enhanced
6.	Attendant charges	1,600/-	10,000/-	Enhanced
7.	Medical expenses	1,15,270/-	1,15,270/-	Confirmed
8.	Future medical expenses	25,000/-	25,000/-	Confirmed
9.	Loss of income	20,000/-	40,000/-	Enhanced
10.	Loss of amenities	25,000/-	25,000/-	Confirmed
	Total	3,72,870/- rounded off to 3,72,900/-	4,07,270/- rounded off to 4,07,300/-	Enhanced by Rs.34,400 /-

10. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.3,72,900/- is enhanced to Rs.4,07,300/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.6343 of 2013. On such deposit, the appellant is permitted to withdraw the award amount, now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gsa
To

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



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

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+1cc to Mr.K.J.Sivakumar, Advocate Sr.15697
+1cc to Mr.J.Chandran, Advocate Sr.15225
+1cc to Mr.P.T.Saleem Fathima, Advocate Sr.15251

C.M.A.No.434 of 2021

rsv[co]
srg 08/10/2021