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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1870 of 2021

S. Prabhu

.... Appellant /Petitioner

Versus

1. K. Chettiyappan

2. M/s. The Oriental Insurance
Company Limited,
22-C, Siva Complex,
Sarada College Main Road,
Fairlands, Salem
636 016.

.... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to enhance the compensation awarded in the judgement and decree dated 15.04.2019 passed in M.C.O.P. No.685 of 2017 on the file of Motor Accidents Claims Tribunal/ Special Subordinate Judge No.2, Salem.

For Appellant : M/s. C. Thangaraju

For Respondents : Mr. J. Chandran for R2
R1 - Served - No appearance

JUDGMENT
(Heard video conference)

Mr.J.Chandran, learned counsel undertakes to file vakalat on behalf of the 2nd respondent / Insurance Company.

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 15.04.2019 passed by the Motor Accident Claims Tribunal (Special Subordinate Judge No.2, Salem) in M.C.O.P.No.685 of 2017.

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



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3. The details of the compensation awarded by the Tribunal under the impugned award are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Functional disability Rs.6,500 x 12 = 40% x 18 = 19,65,600 x 3.33%	65454
Pain and sufferings	5000
Loss of amenities	5000
Medical expenses as per Ex.p6	16750
Transportation expenses	2500
Extra nourishment	2500
Attendant charges	5000
Damage to clothing	500
Total	102704

4. Heard Mr.C.Thangaraju, learned counsel for the appellant / claimant and Mr.J.Chandran, learned counsel for the respondent / Insurance Company. Despite service of notice on the 1st respondent, there is no representation on his side.

5. This Court has perused and examined the impugned award before the Tribunal.

6. The appellant / claimant sustained a) injuries in the right elbow, b) injuries in left thumb finger, c) Right leg foot injuries and d) injuries all over his body.

7. The Medical Board has assessed his disability at 10% and the report of the Medical Board is marked as Court Ex C-1. The Tribunal has adopted the Multiplier method and has taken the disability of the appellant/claimant as 3.33% for the purpose of assessing the loss of income to the appellant due to his disability.

8. The Tribunal awarded a compensation of Rs.65,454/- towards loss of income to the appellant / claimant, which cannot be considered to be inadequate as alleged by the appellant / claimant. Therefore, the same is confirmed by this Court. However, this Court is of the considered view that the compensation awarded by the Tribunal under the heads a) pain and suffering; b) loss of amenities; c) transport expenses; d)



extra nourishment expenses; e) attendant charges; f) damage to clothing are less and it has to be enhanced in the following manner viz., towards a) pain and suffering at Rs.10,000/-; b) loss of amenities at Rs.10,000/-; c) transportation expenses at Rs.5,000/-; d) extra nourishment expenses at Rs.5,000/- e) towards attendant charges at Rs.10,000/- and) damage to clothing at Rs.2,000/-.

9. Insofar as the compensation awarded by the Tribunal towards medical bills at Rs.16,750/- is concerned, the same are supported by bills and only in accordance with the said bills the same was fixed by the Tribunal and therefore, there is no scope for any enhancement under the said head. This Court, therefore, confirms the compensation towards medical bills at Rs.16,750/- as fixed by the Tribunal.

10. For the foregoing reasons, the award of the Tribunal is hereby enhanced in the following manner :

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Functional disability $\text{Rs.6,500} \times 12 = 40\% \times 18 = 19,65,600 \times 3.33\%$	65454	65454
Pain and sufferings	5000	10000
Loss of amenities	5000	10000
Medical expenses as per Ex.p6	16750	16750
Transportation expenses	2500	5000
Extra nourishment	2500	5000
Attendant charges	5000	10000
Damage to clothing	500	2000
Total	102704	124204

11. In the result, the appeal filed by the appellant / claimant, stands partly allowed by enhancing the compensation from Rs.1,02704/- to Rs.1,24,204/-, as indicated above. No costs.

12. The second respondent / Insurance Company is directed to deposit the entire award amount as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MCOP No.685 of 2017 on the file of the Motor Accidents Claims Tribunal/ Special Subordinate Judge No.2, Salem, within a period of eight weeks



from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant / claimant through RTGS, within a period of two weeks thereafter. Necessary Court fee, if any has to be paid by the appellant / claimant before receiving the copy of this Judgment.

Sd/-

Assistant Registrar(Rules)

//True Copy//

Sub Assistant Registrar

ab/vsi2

To

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

Copy to

The Section Officer,
V.R. Section, High Court of Madras,
Chennai - 104.

+2ccs to Mr.C.Thangaraju, Advocate, S.R.No.43817
+1cc to Mr.J.Chandran, Advocate, S.R.No. 43974

C.M.A.No.1870 of 2021

GJ(CO)
GN(20/10/2021)