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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2021

CORAM:

THE HONOURABLE TMT.JUSTICE S.KANNAMMAL

C.M.A.No.1554 of 2021

Dhanusu

.. Appellant

Vs.

1.R.Padmanaban

2.The Divisional Manager,

The Reliance General Insurance Company Limited,

Plot No.2054, 2nd Floor, Raji's Towers,

Second Avenue, Anna Nagar, Chennai.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 01.02.2019 made in M.C.O.P.No.121 of 2015 on the file of the Motor Accident Claims Tribunal, the Special Sub Court, Tiruvannamalai.

For Appellant : Mr.S.Panneer Selvam

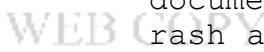
For R2 : Mr.S.Arunkumar

J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid mode".

2.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 01.02.2019 made in M.C.O.P.No.121 of 2015 on the file of the Motor Accident Claims Tribunal, the Special Sub Court, Tiruvannamalai.

3.The appellant is the claimant in M.C.O.P.No.121 of 2015 on the file of the Motor Accident Claims Tribunal, the Special Sub Court, Tiruvannamalai. He filed the above said claim petition,



4. 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 Tata Ace vehicle belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,10,000/- as compensation to the appellant.

6. The learned counsel appearing for the appellant contended that in the accident the appellant suffered fracture of right hand and multiple injuries all over the body. The Medical Board from Government Tiruvannamalai Medical College Hospital examined the appellant and certified that appellant suffered 20% disability and issued disability certificate Ex.C1 to that effect. But the Tribunal awarded a meagre sum of Rs.60,000/- towards disability at the rate of Rs.3,000/- per percentage of disability. The accident occurred in the year 2014 and the Tribunal ought to have awarded more amount towards disability. At the time of accident, the appellant was working as a Mason and was earning a sum of Rs.15,000/- per month. But the Tribunal fixed a meagre sum of Rs.5,000/- per month as notional income of the appellant and awarded compensation towards loss of earning only for three months. The appellant has taken treatment at JIPMER Hospital as inpatient for a period of one month. The Tribunal failed to award any amount towards attendant charges. The amounts awarded by the Tribunal towards pain and sufferings, transportation expenses and extra nourishment are meagre and prayed for enhancement of compensation.

<https://hcservices.ecourts.gov.in/hcservices/>



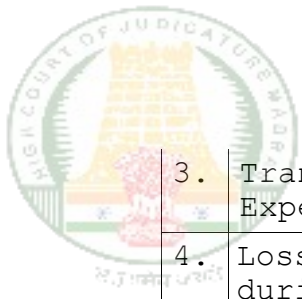
8. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent-Insurance Company and perused the entire materials on record.

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9. It is the contention of the appellant that in the accident he suffered fracture of right hand and multiple injuries all over the body. The Medical Board from Government Tiruvannamalai Medical College Hospital examined the appellant and certified that appellant suffered 20% disability. The disability certificate issued by the Medical Board, Government Tiruvannamalai Medical College Hospital was marked as Ex.C1. The Tribunal following the judgment of the Hon'ble Apex Court reported in 2013 (2) TNMAC 583 (National Insurance Company Limited Erode Vs. G.Ramesh and another), accepted the disability certificate issued by the Medical Board and awarded a sum of Rs.60,000/- for 20% of disability at the rate of Rs.3,000/- per percentage of disability and the same is not meagre.

10. It is the contention of the appellant that at the time of accident, he was working as a Mason and was earning a sum of Rs.15,000/- per month. He failed to prove the said contention. In the absence of any material evidence with regard to avocation and income, the Tribunal fixed a sum of Rs.5,000/- per month as notional income of the appellant which is proper. Due to the injuries and disability suffered by the appellant in the accident, he would not have attended his work atleast for a period of six months. Thus, the compensation awarded by the Tribunal towards loss of income is modified to Rs.30,000/- (Rs.5,000/- X 6 months). The appellant has taken treatment at JIPMER Hospital as inpatient for a period of one month. Considering the nature of injuries and period of treatment taken by the appellant, the amount awarded by the Tribunal towards pain & sufferings and extra nourishment are meagre and the same are enhanced to Rs.30,000/- and Rs.10,000/- respectively. The Tribunal has not awarded any amount towards attendant charges. Considering the period of treatment taken by the appellant, a reasonable amount of Rs.5,000/- is granted towards attendant charges. The amount awarded by the Tribunal towards transportation expenses is just and reasonable and hence, the same is hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	60,000/-	60,000/-	Confirmed
2.	Pain and sufferings	25,000/-	30,000/-	Enhanced



3.	Transportation Expenses	5,000/-	5,000/-	Confirmed
4.	Loss of earning during the treatment period	15,000/-	30,000/-	Enhanced
5.	Extra nourishment	5,000/-	10,000/-	Enhanced
6.	Attendant charges	-	5,000/-	Granted
	Total	Rs.1,10,000/-	Rs.1,40,000/-	Enhanced by Rs.30,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,10,000/- is hereby enhanced to Rs.1,40,000/- 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, less the amount already deposited, if any, 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.121 of 2015 on the file of the Motor Accident Claims Tribunal, the Special Sub Court, Tiruvannamalai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The appellant is not entitled to any interest for the delay period on Rs.30,000/- now enhanced by this Court, as per the order of this Court dated 23.04.2021 made in C.M.P.No.5291 of 2021 in C.M.A.No.SR.19624 of 2021. The appellant is directed to pay the necessary Court fee for the enhanced amount of compensation. No costs.

Sd/-

Assistant Registrar (CS-I)

//True copy//

Sub Assistant Registrar

mtl

To

1. The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Tiruvannamalai



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

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+1cc to Mr.S.Panneer Selvam, Advocate SR.No.30985

+1cc to Mr.S.Arunkumar, Advocate SR.No.31209

C.M.A.No.1554 of 2021

SPD (CO)
GMY (31/08/2021)