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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1076 of 2021

Dhanasekaran

.. Appellant/Petitioner

Vs.

1.Neyveli Lignite Corporation Limited,
Neyveli.

2.United India Insurance Company Limited,
Cuddalore. .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.06.2020 made in M.C.O.P. No.155 of 2015, on the file of the Principal Sub Court, (Motor Accidents Claims Tribunal), Cuddalore.

For Appellant : Mrs.Ramya V.Rao
for Mr.A.N.Viswanatha Rao

For Respondents: M/s.I.Malar (For R2)

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 the compensation granted by the Tribunal in the award dated 22.06.2020 made in M.C.O.P. No.155 of 2015, on the file of the Principal Sub Court, (Motor Accidents Claims Tribunal), Cuddalore.

2.By consent of the learned counsel appearing for the appellant as well as the 2nd respondent, the appeal is taken up for final disposal at the admission stage itself.



3.The appellant/claimant filed M.C.O.P.No.155 of 2015, on the file of the Principal Sub Court, (Motor Accidents Claims Tribunal), Cuddalore, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 15.03.2014.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that accident occurred due to rash and negligent driving by driver of the Jeep owned by the 1st respondent and directed the 2nd respondent as insurer of the vehicle to pay a sum of Rs.1,83,500/- as compensation to the appellant.

5.Not being satisfied with the amounts awarded by the Tribunal in the award dated 22.06.2020 made in M.C.O.P. No.155 of 2015, the appellant has come out with the present appeal.

6.The learned counsel appearing for the appellant contended that in the accident, the appellant sustained left wrist collar bone fracture and has taken treatment as in-patient at Hospital from 15.03.2014 to 19.03.2014. The Medical Board certified that the appellant suffered 33% disability. The Tribunal without considering the accident of the year 2014, awarded only a meagre sum of Rs.99,000/- towards permanent disability at the rate of Rs.3,000/- per percentage. At the time of accident, the appellant was working as a Contract Labour at Neyveli Lignite Corporation and was earning a sum of Rs.15,000/- per month. The Tribunal has fixed only a sum of Rs.6,500/- per month as notional income and awarded compensation towards loss of income for three months. The Tribunal ought to have atleast fixed the notional income of the respondent as Rs.12,000/- per month and awarded compensation towards loss of income for nine months. The amounts awarded by the Tribunal towards attendant charges, extra nourishment and attendant charges are meagre. The total compensation awarded by the Tribunal under different heads are meagre and prayed for enhancement of the compensation.

7.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company submitted that considering the nature of injuries suffered and period of treatment taken by the appellant, the Tribunal has awarded compensation, which is not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

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



9. It is the case of the appellant that in the accident, he suffered grievous injuries and has taken treatment as in-patient at Government Hospital, Cuddalore, from 15.03.2014 to 19.03.2014, for a period of 5 days. He was referred to the Medical Board. The Medical Board examined the appellant and certified that the appellant suffered 33% disability for whole body. The Tribunal awarded a sum of Rs.99,000/- towards disability at the rate of Rs.3,000/- per percentage for 33% disability. The same is meagre. This Court by the judgment reported in 2020 (1) TN MAC 617 [M. Chinnathambi Vs. S. Deepa and another], fixed a sum of Rs.4,000/- per percentage of disability for the accident occurred in the year 2014 & 2015 and a sum of Rs.5,000/- per percentage of disability for the accident occurred from the year 2016 onwards, due to raise in cost of living. In the present case, the accident is of the year 2014. In view of the same, a sum of Rs.4,000/- is awarded per percentage of disability. Hence, the amount awarded by the Tribunal towards disability is enhanced to Rs.1,32,000/- ($\text{Rs.4,000/-} \times 33\%$), at the rate of Rs.4,000/- per percentage for 33% disability. Considering the nature of injuries and period of treatment taken by the appellant, the amount awarded by the Tribunal towards transportation charges, attendant charges and extra nourishment are meagre and the same are enhanced to Rs.10,000/- each. The Tribunal failed to award any amount towards damage to clothes. The appellant is entitled to a sum of Rs.2,000/- towards damage to clothes.

10. According to the appellant, at the time of accident, he was working as a Contract Labour at the Neyveli Lignite Corporation Limited and was earning a sum of Rs.15,000/- per month. He did not file any material document to prove the same. In the absence of any evidence, the Tribunal fixed a sum of Rs.6,500/- per month as notional income of the appellant, which is meagre. The accident is of the year 2014. Considering the year of accident and the nature of work done by the appellant, a sum of Rs.14,000/- per month is fixed as the notional income of the appellant. Due to the injuries sustained in the accident, he would not have worked at least for a period of two months. Hence, the amounts awarded by the Tribunal towards loss of income is enhanced to Rs.28,000/- [$\text{Rs.14,000/-} \times 2 \text{ months}$]. Considering the nature of injuries and disability, this Court is of the considered view that the amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent disability	99,000/-	1,32,000/-	Enhanced
2.	Extra nourishment	5,000/-	10,000/-	Enhanced
3.	Pain and sufferings	30,000/-	30,000/-	Confirmed
4.	Transportation	5,000/-	10,000/-	Enhanced
5.	Attendant charges	5,000/-	10,000/-	Enhanced
6.	Damage to clothes	-	2,000/-	Granted
7.	Loss of amenities	20,000/-	20,000/-	Confirmed
8.	Loss of income	19,500/-	28,000/-	Enhanced
	Total	1,83,500/-	2,42,000/-	Enhanced by Rs.58,500/-

11. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.1,83,500/- is enhanced to Rs.2,42,000/- 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, 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.155 of 2015. 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/-
Deputy Registrar (AD II)

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Sub Assistant Registrar



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To

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1. The Principal Subordinate Judge,
(Motor Accidents Claims Tribunal),
Cuddalore.

+2cc to Mr.A.N.Viswanatha Rao, Advocate SR.No.21642

+1cc to Mr.T.Ravichandran, Advocate SR.No.21478

C.M.A.No.1076 of 2021

SS (CO)
GMY (20/10/2021)