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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2021
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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1284 of 2021

(Through Video Conferencing)

Kannan

...Appellant/Petitioner

Vs.

1.Vadivel

2.The Reliance General Insurance Co. Ltd.,
Office at 570, Naigaum Cross Road,
Near to Royal Industrial Estate Wadala (W),
Mumbai, Mahashtra.
Branch at Sri Lakshmi Complex, 1st Floor
Omalar Main Road, Bharathi Street,
Salem District.

...Respondents/Respondents

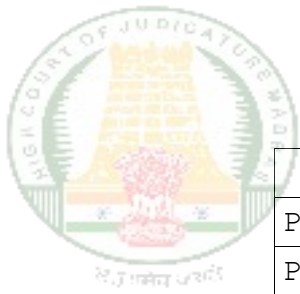
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P.No.145 of 2016, dated 19.03.2020, on the file of the Motor Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode.

For Appellant : Mr.T.S.Arthanareeswaran
For Second Respondent: M/s.C.Bhuvanasundari

J U D G M E N T

The claimant is the appellant in this Civil Miscellaneous Appeal. This Civil Miscellaneous Appeal has been filed for enhancement of compensation awarded by the Motor Accident Claims Tribunal (Subordinate Judge Court), Tiruchengode in the impugned Judgment and Decree dated 19.03.2020 in M.C.O.P.No.145 of 2016.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.1,50,500/- as compensation together with interest at 7.5% per annum from the date of claim petition till the date of deposit and costs to the appellant as detailed below:-



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Heads	Amount
Permanent Disability	Rs.30,000/-
Pain and Sufferings	Rs.20,000/-
Extra Nourishment and Loss of things	Rs.10,000/-
Attendar Charges	Rs.10,000/-
Medical Expenses (including bills)	Rs.54,500/-
Transport Expenses	Rs. 5,000/-
Loss of Income for three months	Rs.21,000/-
Total	Rs.1,50,500/-

3. The case of the appellant is that on 10.03.2016 at about 00.30 a.m, when he was walking on the Tiruchengode to Aanangur Main Road, near Satiyampudur EB office, a TVS XL Super Heavy duty Moped insured with the second respondent driven by its driver in a rash and negligent coming from the opposite direction hit the appellant, as a result of which, the appellant sustained grievous injuries. Therefore, he filed the above claim petition, on which, the aforesaid compensation of Rs.1,50,500/- has been awarded.

4. The learned counsel for the appellant submits that the Tribunal has awarded very meager amount of compensation for the injuries suffered by the appellant towards permanent disability. It is further submitted that the Tribunal has considered the notional income of the appellant as Rs.7,000/- only for awarding compensation of Rs.21,000/- towards the loss of income for three months and therefore, he prays for enhancement.

5. The learned counsel for the second respondent Insurance Company submits that the impugned Judgment and Decree passed by the Tribunal is well reasoned and requires no interference and therefore, prays for confirming the award amount and for dismissal of this appeal.

6. Heard the learned counsel for the appellant and the learned counsel for the second respondent Insurance Company. I have perused the impugned Judgment and Decree and evidence on record.

7. In my view, the Tribunal has awarded just compensation on most of the heads except the loss of income for three months. The Tribunal has only awarded a sum of Rs.21,000/- towards loss of income for three months by considering the notional income of the appellant as Rs.7,000/- per month.



8. It is submitted that appellant was running four Power Looms on lease and was earning a sum of Rs.25,000/- per month. Considering the fact that the appellant had failed to produce any evidence to substantiate the same, this Court is inclined to consider the notional income of Rs.12,500/- per month for awarding compensation.

9. Similarly, considering the nature of injuries suffered by the appellant, namely, fracture in below of right knee, this Court is inclined to award the compensation towards loss of income for the period of six months instead of three months. Therefore, the compensation of Rs.21,000/- awarded by the Tribunal towards loss of income is enhanced to Rs.75,000/- (Rs.12,500 x 6).

10. Thus, the compensation awarded by the Tribunal towards loss of income is enhanced by another sum of Rs.54,000/- (75,000 - 21,000). In the result, the total compensation payable to the appellant/claimant is enhanced to Rs.2,04,500/- (1,50,500 + 54,000) which is rounded off to Rs.2,05,000/-. Pay and recover ordered by the Tribunal is confirmed. The second respondent is entitled to recover the same from the first respondent in accordance with law.

11. The second respondent is directed to deposit a sum of Rs.2,05,000/- as compensation together with interest at 7.5% per annum from the date of claim petition till the date of deposit and costs in the method of payment ordered by the Tribunal, less any amount already deposit, within a period of six weeks from the date of receipt of a copy of this Judgment.

12. On such deposit, the appellant is permitted to withdraw the same together with interest and costs, less any amount already withdrawn, by filing suitable application before the Tribunal.

13. This Civil Miscellaneous Appeal is partly allowed. No cost.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

1. Motor Accident Claims Tribunal,
(Subordinate Judge Court),
Tiruchengode.

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

C.M.A.No.1284 of 2021

PVS (CO)
SP(02/11/2021)