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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.Nos.1426 and 1909 of 2021

C.M.A.No.1426 of 2021

P.G.Sathya Narayanan

...Appellant

Vs.

1.Lenin

2.M/s.Royal Sundaram Alliance
Insurance Co. Ltd.,
No.1,Subramanian Building,
Mount Road (near Spencer Plaza)
Chennai - 2.

...Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Decree and Judgment dated 19.03.2020 passed in MCOP No.2325 of 2014 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

For Appellant : Mr.K.Surya Narayanan

For Respondents : Mr.M.B.Raghavan for
M/s M.B.Gopalan Associates (for R2)

C.M.A.No.1909 of 2021

M/s.Royal Sundaram Alliance
Insurance Company Limited,
No.1,Subramanian Building,
Mount Road (near Spencer Plaza)
Chennai - 2.

...Appellant

Vs.

1.P.G.Sathya Narayanan

2.Lenin

...Respondents



PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree made in MCOP No.2325 of 2014, 19.03.2020 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

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For Appellant : Mr.M.B.Raghavan for
M/s M.B.Gopalan Associates

For Respondents : Mr.K.Suryanarayanan (for R1)

COMMON JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

Challenge in C.M.A.No.1909 of 2021 filed by the Insurance Company is to the award passed by the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai in MCOP No.2325 of 2014. Dissatisfied with the quantum, the claimant has come up with the another appeal CMA No.1426 of 2021 for enhancement of compensation.

2.This is the case of injury. The case of the claimant is that on 22.02.2014 at 12.30 hours, he was riding his motorcycle bearing Reg.No.KA-03-HB-5240 at New Avadi Road from east to west direction at VOC Bus stop near Kumaran Nagar III Street, Junction. In that vehicle, one Frankilin Christopher travelled as pillion rider. At that time, a TATA ACE Vehicle bearing Reg.No.TN-05-AS-6096 came behind in a rash and negligent manner and hit the claimant's vehicle. In the accident, both the rider and the pillion rider sustained grievous injuries and the claimant lost his sight. Alleging that the accident had taken place due to the rash and negligent driving of the driver of the TATA ACE, the claimant laid a petition, claiming compensation of Rs.1,00,00,000/-.

3.Resisting the claim, the appellant Insurance Company filed their counter disputing the nature of injuries, period of treatment and alleged disability and its liability to pay the compensation. It was also contended that the claim is excessive and exorbitant.

4.To substantiate the case, on the side of the claimants, P.Ws.1 to 3 were examined and Exs.P1 to Ex.P.33 were marked. On the side of the appellant/Insurance Company, no witness has been examined and no document has been marked.

5.The Tribunal, after considering the oral and documentary evidence, held that the driver of the TATA ACE was responsible for the accident and awarded compensation of Rs.57,28,000/- to the claimant under the following heads:-



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Heads	Rs.
Functional Disability	48,75,000/-
Pain and Suffering	15,000/-
Extra Nourishment	10,000/-
Transportation	20,000/-
Damages to clothes	1,000/-
Attender charges	20,000/-
Medical Expenses	7,57,270/-
Loss of Amenities	30,000/-
Total	57,28,270/-
Rounded off	57,28,000/-

6.Challenging the said award, while CMA.No.1909 of 2020 has been filed by the Insurance Company on the ground that the award amount is on the higher side, CMA No.1426 of 2021 has been filed by the claimant on the ground that the award amount is meager.

7.These appeals have been filed only challenging the quantum, hence, the other issues need not be dealt with herein.

8.Mr.M.Raghavan, learned counsel for the appellant/ Insurance Company has contended that the award is on the higher side by wrongly fixing excessive monthly income of Rs.25,000/- and it requires reduction. He would further contend that when the salary certificate was marked, the same was objected by the Insurance Company.

9.The learned counsel appearing for the claimant would submit that the claimant has suffered from vision loss of both eyes resulting in 100% disability and a further locomotor disability of 90% issued by the Government Peripheral Hospital has not been considered by the Tribunal. He would further contend that the Tribunal has awarded a paltry sum of Rs.15,000/- towards pain and suffering; Rs.10,000/- towards extra nourishment; Rs.20,000/- towards Transportation and Rs.20,000/- towards attendant charges. He would further submit that in the accident, the claimant lost his sight, but the Tribunal has not awarded any compensation for loss of his vision. Therefore, he seeks enhancement of compensation.

10.This Court carefully considered the submissions of the learned counsel for the Insurance Company as well as the learned counsel for the claimant and perused the materials available on record.



11.It is seen that the Tribunal has fixed the monthly income of the claimant as Rs.25,000/- based on the evidence of P.W.3 and the Salary Certificate (Ex.P.26). Further, as contended by the learned counsel for the Insurance Company, the salary certificate of the claimant has been marked without considering the objection raised by the Insurance Company. Further, no evidence adduced for receiving the above amount by salary. Therefore, this Court fixed the monthly income of the claimant as Rs.14,000/-. By adding 25% future prospects and by applying multiplier '13', this Court awards Rs.27,30,000/- ($14000+3500=17500 \times 12 \times 13$).

12.It is an admitted fact that immediately, after the accident, the claimant was admitted in Kilpauk Medical College Hospital and shifted to Rajiv Gandhi Government Hospital and taken treatment as an inpatient from 22.02.2014 to 26.03.2014. Again, he was admitted in SOUL Hospital and taken treatment as an inpatient from 11.04.2014 to 20.04.2014 and subsequently, he was admitted in CMC Vellore and taken treatment as an inpatient from 19.06.2014 to 25.09.2014 and again admitted in Sugam Hospital and taken treatment as an inpatient from 03.04.2014 to 04.04.2017 and he has taken treatment as an outpatient from Dr.V.Natarajan, MD.DM.Rtd. Professor of Neurology and Head Institute of Neurology, Madras Medical College and again, continuously, he is taking treatment as an outpatient at Sugam Hospital. Therefore, considering the nature of injuries sustained by the claimant, this Court is of the view that the amount awarded under the head of pain and suffering, extra nourishment, transportation, attendant charges and loss of amenities are very meager and they have to be enhanced.

13.Further, it is seen that the Regional Institute of Ophthalmology and Government Ophthalmic Hospital, Egmore, Chennai had issued a blind certificate that there is 100% Blindness to the claimant. But the Tribunal has not awarded any compensation under the head of loss of Eye Vision. Hence, this Court is of the view that the claimant is entitled to get the award under the said head. Accordingly, the compensation awarded by the Tribunal to the claimant is re-quantified as follows:-

Heads	Rs.
Functional Disability [$14000+3500=17500 \times 12 \times 13$]	27,30,000/-
Pain and Suffering	2,00,000/-
Extra Nourishment	1,00,000/-
For Transportation	1,00,000/-



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Heads	Rs.
Damages	1,000/-
Attender Charges [5000x12x13]	7,80,000/-
Medical Expenses	7,57,270/-
Loss of Amenities	2,00,000/-
Loss of Eye Vision	3,00,000/-
Future Medical Expenses	3,00,000/-
Total	54,68,270/-
Rounded off	54,68,000/-

14.In such view of the matter, CMA No.1426 of 2021 is dismissed and the CMA No.1909 of 2021 is partly allowed. The Insurance Company is directed to deposit the modified award amount with 7.5% accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the amount, less the amount already withdrawn if any, by filing suitable application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

skn

To

1.The Motor Accidents Claims Tribunal,
VI Court of Small Causes, Chennai.

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

+1cc to Mr.K.Suryanarayanan, Advocate SR.No.43339

C.M.A.Nos.1426 and 1909 of 2021

JPL(CO)
RVM(11/01/2022)