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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2411 of 2019

Sickandar Shareef

.. Appellant/Claimant

Vs.

1.Srinivasan

(R1 remained exparte before the
Tribunal)

2.SBI General Insurance Company Limited
Ground floor, Greams Dugar Buildings
No.64, Greams Road
Chennai-600 006.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.11.2018 made in M.C.O.P.No.1376 of 2016 on the file of Motor Accident Claims Tribunal, Special Sub Court No.1 (dealing with MCOP cases), Small Causes Court, Chennai.

For Appellant : Mr.K.V.Muthu Visakan
for Mr.S.Thambi

For R2 : Mr.J.Michael Visuvasam
R1 : Exparte

J U D G M E N T

This matter is heard through "Video-Conferencing".

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 09.11.2018 made in M.C.O.P.No.1376 of 2016 on the file of Motor Accident Claims Tribunal, Special Sub Court No.1 (dealing with MCOP cases), Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.1376 of 2016 on the file of Motor Accident Claims Tribunal, Special Sub Court



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No.1 (dealing with MCOP cases), Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.70,00,000/- as compensation for the injuries sustained by him in the accident that took place on 15.12.2015.

3.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 mini lorry belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said mini lorry to pay a sum of Rs.18,92,000/- as compensation to the appellant at the first instance and recover the same from the 1st respondent as the driver of the mini lorry belonging to the 1st respondent did not possess valid driving license at the time of accident.

4.Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellant contended that the appellant was aged 24 years at the time of accident, he was working as a marketing officer in Micro Labs Limited, Bangalore and was earning a sum of Rs.11,000/- per month along with incentives. He has marked the joining report and pay slip as Exs.P6 and P7 to prove the avocation and income. The Tribunal without considering the same, fixed only a sum of Rs.10,279/- as monthly income of the appellant. In the accident, the appellant sustained severe crush injury over right leg, amputation below knee in right leg and multiple injuries all over the body. The Medical Board after examining the appellant, certified that the appellant suffered 60% disability. The Tribunal has not awarded any amounts towards damage to clothes, loss of amenities, loss of expectation of life, loss of marital life and permanent disability. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal has adopted multiplier method and awarded compensation towards pecuniary loss. In addition to that, the Tribunal has awarded a sum of Rs.2,00,000/- towards loss of future prospects. The total



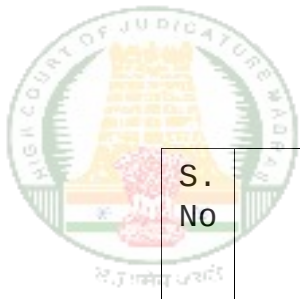
compensation awarded by the Tribunal under different heads are excessive. The appellant is not entitled to any enhancement of compensation and prayed for dismissal of the appeal.

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7. 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.

8. From the materials on record, it is seen that it is the contention of the appellant that in the accident, he sustained severe crush injury over right leg, amputation below knee in right leg and multiple injuries all over the body. The Medical Board after examining the appellant, certified that the appellant suffered 60% disability and issued Ex.C1/Disability certificate. The appellant has taken treatment in the hospital as in-patient from 15.12.2015 to 04.02.2016 for 52 days. The amounts awarded by the Tribunal towards transportation, extra nourishment and attendant charges are meagre. Considering the nature of injuries, disability and period of treatment taken by the appellant, Rs.25,000/-, Rs.50,000/- and Rs.50,000/- are awarded towards transportation, extra nourishment and attendant charges respectively.

9. The appellant has contended that he was aged 24 years at the time of accident, he was working as a marketing officer in Micro Labs Limited, Bangalore and was earning a sum of Rs.11,000/- per month along with incentives. He has marked the joining report and pay slip as Exs.P6 and P7 to prove the avocation and income. The Tribunal fixed a sum of Rs.10,279/- as monthly income of the appellant and awarded compensation towards pecuniary loss by adopting multiplier method, which is not proper. A sum of Rs.11,000/- is fixed as monthly income of the appellant as claimed by the appellant. Thus, the compensation awarded by the Tribunal towards pecuniary loss is modified to Rs.14,25,600/- ($\text{Rs.11,000/-} \times 12 \times 18 \times 60/100$). The amounts awarded by the Tribunal under all 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 or reduced
1.	Pecuniary loss	13,32,158	14,25,600	Enhanced
2.	Pain and suffering	50,000	50,000	Confirmed
3.	Transportation	10,000	25,000	Enhanced
4.	Hospital and medical expenses	1,14,200	1,14,200	Confirmed
5.	Future Medical Expenses	1,42,652	1,42,652	Confirmed
6.	Extra nourishment	30,000	50,000	Enhanced
7.	Attendant charges	13,000	50,000	Enhanced
8.	Loss of future prospects	2,00,000	2,00,000	Confirmed
	Total	18,92,010 rounded off to 18,92,000	2057452 rounded off to 20,57,500	Enhanced by Rs.1,65,500/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.18,92,000/- is hereby enhanced to Rs.20,57,500/- 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 at the first instance and recover the same from the 1st respondent. 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. No costs.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

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To

1.The Special Subordinate Judge No.I
Motor Accident Claims Tribunal
Small Causes Court, Chennai.

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

+1CC to Mr.J.Michael Visuvasam, Advocate, SR.No. 4612
+1CC to Mr.K.V.Muthu Visakan, Advocate, SR.No. 4465

C.M.A.No.2411 of 2019

BS(CO)
B.VC (17/09/2021)