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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL J.

C.M.A.No.886 of 2018

K.Sekar

.. Appellant /Claimant

Vs.

1.A.Bhaskar

2.The United India Assurance Company Ltd.,
By its Manager,
E 50-A, Pallivasal Street,
Perambalur,
Perambalur District.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1989, against the judgment and decree dated 21.11.2017 made in M.C.O.P.No.297/2016 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate , Perambalur.

For Appellant : Mr.S.Kamadevan

For R1 : No appearance

For R2 : S.Arunkumar

J U D G M E N T

The matter is heard through "Video Conferencing".

2. This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 21.11.2017 made in M.C.O.P.No.297 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur.



3. The appellant is the claimant in M.C.O.P.No.297 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur. He filed the above said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 10.02.2016.

4.The Tribunal, considering the pleadings and oral and documentary evidence, held that the accident had occurred due to rash and negligent riding by the rider of the motorcycle bearing Reg.No.TN 46-J-0567 belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.53,872/- as compensation to the appellant/claimant.

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

6.The learned counsel appearing for the appellant/claimant contended that, in the accident, the appellant suffered fracture of right knee and multiple injuries all over the body. The Medical Board, Perambalur District examined the appellant and certified that appellant suffered 12.5% disability and issued Disability Certificate Ex.C1 to that effect. But, the Tribunal awarded a meagre sum of Rs.37,500/- towards disability at the rate of Rs.3,000/- per percentage of disability. The accident occurred in the year 2016 and the Tribunal ought to have awarded more amount towards 'disability'. The appellant has taken treatment at Government Hospital, Perambalur as in-patient for 12 days from 10.02.2016 to 21.02.2016. The Tribunal failed to award any amount towards 'loss of income' during treatment period. The amounts awarded by the Tribunal towards the other heads are also meager and the learned counsel prayed for enhancement of compensation amount.

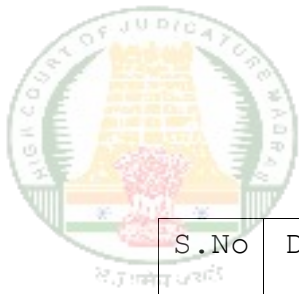
7.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal accepted the disability certificate issued by the Medical Board and awarded a sum of Rs.37,500/- for 12.5% of disability and the same is not meager and it is justified. The Tribunal, considering the entire materials on record, has awarded a sum of Rs.53,872/- as compensation to the appellant under different heads and the same is not meager. The appellant has not made out any case for enhancement of compensation and he prayed for dismissal of the appeal.



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

9. It is the contention of the appellant that, in the accident, he suffered fracture of right knee and multiple injuries all over the body. The Medical Board, Perambalur District examined the appellant and certified that he suffered 12.5% disability. The disability certificate issued by the Medical Board, Perambalur District was marked as Ex.C1. The Tribunal accepted the disability certificate issued by the Medical Board and awarded a sum of Rs.37,500/- for 12.5% of disability at the rate of Rs.3,000/- per percentage of disability and the same is very low. The accident is of the year 2016 and due to rise in the cost of living, a reasonable sum of Rs.4,000/- is hereby awarded per percentage of disability. Thus, the compensation awarded by the Tribunal towards 'disability' is modified to Rs.50,000/- (Rs.4,000/- X 12.5% disability).

10. It is the contention of the appellant/claimant that, at the time of accident, he was working as a Tailor and earning a sum of Rs.15,000/- per month. The appellant has taken treatment at Government Hospital, Perambalur, as an in-patient for 12 days from 10.02.2016 to 21.02.2016. The Tribunal has not awarded any amount towards 'loss of income' during the treatment period. Considering the nature of injuries and period of treatment underwent by the appellant, a reasonable sum of Rs.5,000/- is granted towards 'loss of income' during treatment period. The Tribunal awarded a sum of Rs.5,000/- altogether toward extra nourishment, attender charges and transportation charges, which is very low. Considering the period of treatment underwent by the appellant, a reasonable sum of Rs.3,000/- is separately granted towards attender charges. The Tribunal awarded only a sum of Rs.10,000/- towards pain and sufferings. Considering the nature of injuries sustained by the appellant, a reasonable sum of Rs.20,000/- is hereby awarded towards pain and sufferings. The amounts awarded by the Tribunal towards medical expenses, extra nourishment & transportation charges 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.	Permanent disability	37,500	50,000	Enhanced
2.	Extra Nourishment and transportation. Attender charges	5,000	5,000 (Extra Nourishment and Transportation)	Confirmed
			3000 (Attendant Charges)	Granted
3.	Loss of income during the treatment period	-	5,000	Granted
4.	Medical expenses	1,372	1,372	Confirmed
5.	Pain and Sufferings	10,000	20,000	Enhanced
	Total	Rs.53,872	Rs.84,372/- Rounded off Rs.84,400/-	Enhanced to Rs.30,500/-

11. In the result, this Civil Miscellaneous Appeal is Partly allowed and the compensation awarded by the Tribunal at Rs.53,872/- is hereby enhanced to Rs.84,372/- is rounded off Rs.84,400/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondents are jointly and severally 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.297 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur. 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 directed to pay the necessary Court fee on the enhanced amount of compensation. No costs.

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Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

vsn

To

1. The Motor Accident Claims Tribunal
Chief Judicial Magistrate,
Perambalur.
- 2.The Section Officer
V.R.Section
High Court, Chennai.

C.M.A.No.886 of 2018

NRL(CO)
CB(06/01/2022)