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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.NO.1979 OF 2021

Kandasamy

... Appellant

vs

1. Gopalkannan

2. M/s.Salem Metallurgicals,
Emerald Gardens, Narasethipatty,
Swarnapuri, Salem - 636 004.

3. The United India Insurance Co.Ltd.,
No.19/2A, Junction Main Road,
Salem - 636 004.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 05.02.2021 made in M.C.O.P.No.1637 of 2018 on the file of the Motor Accidents Claims Tribunal/Special Subordinate Judge No.I, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents-1 & 2 : No Appearance

For Respondent-3 : Mr.V.Murali for
Mr.J.Chandran

JUDGMENT

This Civil Miscellaneous Appeal has been filed seeking enhancement of compensation granted by the Tribunal in the award dated 05.02.2021 made in M.C.O.P.No.1637 of 2018 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge No.I, Salem.

2. The appellant is the claimant in M.C.O.P.No.1637 of 2018 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge No.I, Salem. He filed the above said claim petition, claiming a sum of Rs.15,00,000/- as compensation on account of the injuries sustained by him in the accident that occurred on 16.04.2018.



3. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the rider of the two wheeler motorcycle bearing registration No.TN-30-K-9636, who is the first respondent herein. The Tribunal has held that since the second respondent is the owner of the vehicle and the said vehicle was insured with the third respondent-Insurance company, the second and third respondents are jointly and severally liable to pay compensation to the appellant and directed the 3rd respondent-Insurance Company to pay a sum of Rs.2,85,015/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

4. The learned counsel for the appellant contended that the Claims Tribunal had not awarded any compensation towards Future Medical Expenses by considering the fact that the claimant cannot work as before and he has some difficulties in squatting and pain in knee. He further submitted that the amount of compensation awarded towards Loss of Income, Pain and Suffering, Extra Nourishment and Attender Charges are also very low and hence, he prayed for enhancement of compensation.

5. The learned counsel appearing for the 3rd respondent-Insurance Company submitted that the Claims Tribunal on considering the oral and documentary evidence has rightly awarded the compensation and therefore the same need not be interfered with.

6. Heard the learned counsel for the appellant as well as the learned counsel appearing for the 3rd respondent-Insurance Company and perused the entire materials on record.

7. It is the case of the appellant that the Claims Tribunal has not granted compensation towards Future Medical Expenses. By considering Ex.P4-Discharge Summary and Ex.P5-Medical Bills, the Tribunal has rightly awarded a sum of Rs.84,015/- towards Medical Expenses. In Ex.C1-Disability certificate, it is mentioned that the petitioner has some difficulties in squatting, sitting cross legged and pain in knee, considering the same, a sum of Rs.20,000/- is awarded towards Future Medical Expenses.

8. Considering the nature of injuries sustained and the period of treatment undergone by the claimant, this Court feels that the compensation awarded towards Extra Nourishment and Attender Charges appears to be very meagre and hence, the same are enhanced to Rs.20,000/- and Rs.15,000/-, respectively.



9. As the amount awarded by the Tribunal under other heads are just and reasonable, the same are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pain and sufferings	20,000/-	20,000/-	Confirmed
2.	Loss of Earnings	30,000/-	30,000/-	Confirmed
3.	Medical Expenses	84,015/-	84,015/-	Confirmed
4.	Transport to Hospital	10,000/-	10,000/-	Confirmed
5.	Extra nourishment	10,000/-	20,000/-	Enhanced
6.	Attender charges	10,000/-	15,000/-	Enhanced
7.	Damages for clothes and Articles	1,000/-	1,000/-	Confirmed
8.	Loss of Amenities	20,000/-	20,000/-	Confirmed
9.	Permanent Disability & Loss of Earning Power	1,00,000/-	1,00,000/-	Confirmed
10	Future Medical Expenses	Nil	20,000/-	Granted
	Total	Rs.2,85,015/-	Rs.3,20,015/-	Enhanced by Rs.35,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,85,015/- (Rupees Two lakhs Eighty Five thousand and Fifteen) is hereby enhanced to Rs.3,20,015/- (Rupees Three lakhs Twenty thousand and Fifteen) together with interest at the rate of 7.5% per annum from the date of Claim Petition till the date of deposit. The 3rd respondent-Insurance Company is directed to deposit the Award amount determined by this Court, along with 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 judgment to the credit of M.C.O.P.No.1637 of 2018 on the file of the Motor Accident Claims Tribunal, (Special Subordinate Court No.I), Salem. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellant/Claimant through RTGS, within a period of two weeks. The Appellant is directed to pay the



necessary Court fee, if any, on the enhanced compensation.

11. Before parting with this case, this Court wants to emphasize that Tribunals, situated in the State of Tamil Nadu dealing with M.C.O.P. Cases, must ensure and ascertain from the concerned Bank (before transferring the amount of compensation to claimants), as to whether the Bank Account of the Claimants is an old one or it has been opened recently for the purpose of the claim. Tribunals also ascertain from the Bank as to who has introduced the Claimants to the Bank and whether the concerned Advocate appearing for the claimants have any account in the same Bank. In case the Tribunal smells any rat in the Account Number of the claimants, it shall direct the claimants to open a new account in their own name for the purpose of depositing / transferring the amount of compensation, with a request to the Bank not to issue any cheque book or ATM card to the said Account to be opened and the claimants have to visit the Bank in-person and draw the amount from the Bank by way of withdrawal slip.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rsi

To:

1. The Motor accident Claims Tribunal,
Special Subordinate Judge No.I,
Salem.
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai - 600 104.
3. The Section Officer
'F' Section, High Court of Madras,
Chennai - 600 104.

+1cc to Mr.J.Chandran, Advocate, S.R.No.38552

C.M.A.No.1979 of 2021

SSN(CO)
PM/26/10/2021