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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.NO.1446 OF 2020

Kalaimani

... Appellant

.Vs.

1. Jaisurya

2. The United India Insurance Co. Ltd.,
77, Oriental Complex,
A.A. Street,
Salem - 636 001.

... Respondents

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 19.10.2019 made in M.A.C.T.O.P.No.833 of 2018 on the file of the Motor Accidents Claims Tribunal/Special Subordinate Judge No.I, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For 1st Respondent : No Appearance

For 2nd Respondent : Mr.J.Chandran

JUDGMENT

Aggrieved by the judgment and decree dated 19.10.2019 passed by the Motor Accidents Claims Tribunal/Special Subordinate Judge No.I, Salem in M.C.O.P.No.833 of 2018, the injured Claimant has come up with this Civil Miscellaneous Appeal, seeking enhancement of compensation.

2. According to the Claimant, on 09.12.2017, when he was driving a TVS 50 XL Moped bearing Registration No.TN 28 H 9424, another motor cycle bearing Registration No.TN 54 K 4719 (Bajaj KTM Duke), which came in the opposite direction in a rash and



negligent manner, dashed against the vehicle driven by the Claimant, thereby, he sustained grievous injuries and multiple fractures. For the injuries sustained by him, the Claimant filed a Claim Petition claiming a sum of Rs.15,00,000/- as compensation.

3. Before the Tribunal, on the side of the Claimant, P.W.1 was examined and Exs.P1 to P12 were marked. On the side of the Respondents, R.W.1 was examined and Exs.R1 to R3 were marked. On the side of the Court, C.W.1 was examined and Exs.C1 and C2 were marked.

4. The Tribunal, on a consideration of the entire oral and documentary evidence, awarded a sum of Rs.3,46,615/- as compensation to the Claimant, under the following heads:

Heads	Amount awarded by the Tribunal (Rs.)
Pain and Suffering	25,000.00
Loss of Income	42,000.00
Medical expenses	1,33,615.00
Transportation expenses	15,000.00
Extra Nourishment	15,000.00
Attender Charges	15,000.00
Damages to clothing	1,000.00
Inconvenience expenses	25,000.00
Permanent disability	75,000.00
Total	3,46,615.00

5. Learned counsel for the Appellant/Claimant contended that, the Tribunal failed to note that, the Claimant was hospitalized as inpatient for nine days from 09.12.2017 to 17.12.2017, and it ought to have awarded more amount under the heads, 'pain and suffering', 'loss of income' and 'Attender Charges'. He also contended that, no amount is awarded under the head 'future medical expenses'.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. On a perusal of the records, it is seen that, the Appellant/Claimant sustained comminuted fracture lower end left with fracture neck of femur left and comminuted fracture shaft of femur left and Type 3A open comminuted fracture patella left, due to which, he had difficulty in squatting, sitting cross-



legged and pain in hip and knee. Hence, this Court feels it appropriate to enhance the compensation under the head 'pain and suffering' to a sum of Rs.35,000/-.

8. As far as the compensation under the head 'permanent disability' is concerned, the Tribunal has awarded Rs.75,000/- by fixing Rs.3,000/- for each percentage of disability. The Doctor, who examined the Appellant/Claimant assessed his permanent disability at 25%. This Court is of the view that, the compensation under this head requires enhancement, and by fixing Rs.4,000/- for each percentage of disability, compensation is accordingly enhanced to a sum of Rs.1,00,000/- (Rs.4,000/- x 25%).

9. Considering the nature of injuries suffered by the Appellant/Claimant, this Court enhances the compensation towards 'extra nourishment' to Rs.25,000/-.

10. Further, this Court is of the view that, on account of the fractures sustained by him, the Appellant/Claimant would have certainly undergone further treatment. However, the Tribunal has not awarded any amount under the head 'future medical expenses'. Hence, this Court feels it appropriate to award a sum of Rs.25,000/- towards 'future medical expenses'.

11. As compensation awarded under the other heads are just and reasonable, this Court finds no reason to interfere with the same. In all, the Award of the Tribunal is modified, as tabulated below:

Heads	Amount awarded by the Tribunal (Rs.)	Amount modified by this Court (Rs.)
Pain and Suffering	25,000.00	35,000.00
Loss of Income	42,000.00	42,000.00
Medical expenses	1,33,615.00	1,33,615.00
Transportation expenses	15,000.00	15,000.00
Extra Nourishment	15,000.00	25,000.00
Attender Charges	15,000.00	15,000.00
Damages to clothing	1,000.00	1,000.00
Inconvenience expenses	25,000.00	25,000.00
Permanent disability	75,000.00	1,00,000.00
Future Medical Expenses	---	25,000.00
Total	3,46,615.00	4,16,615.00



12. In fine, compensation of a sum of Rs.3,46,615/- awarded by the Tribunal is enhanced to a sum of Rs.4,16,615/- (Rupees Four Lakhs Sixteen Thousand Six Hundred and Fifteen only). The 2nd Respondent/Insurance Company is directed to deposit the modified Award amount along with interest at 7.5% per annum from the date of filing the Claim Petition till the date of deposit, less the amount already deposited, if any, to the credit of M.C.O.P.No.833 of 2018 on the file of Motor Accidents Claims Tribunal (Special Subordinate Judge No-I), Salem, within a period of six weeks from the date of receipt of a copy of this judgment. 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 Civil Miscellaneous Appeal is ordered accordingly. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

(aeb)

To

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

+1cc to Mr.J.Chandran, Advocate, S.R.No.39718

C.M.A.NO.1446 OF 2020

BP(CO)
PBS/15/06/2022