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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.4342 OF 2019

S.Vijaya Kumar,
S/o.Sundarajan

... Appellant

Vs.

1. Thiripura Chits Pvt. Ltd.,
2nd 36 Jeenis Road,
Saidapet, Chennai.
2. National Insurance Co. Ltd.,
No.751, Anna Salai,
Chennai - 2.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 07.12.2016 made in M.C.O.P.No.3592 of 2013, on the file of the Motor Accidents Claims Tribunal, Chennai (in the IV Court of Small Causes, Chennai).

For Appellant : Mr.Amar D.Pandiya
For Respondents :
For R1 : Not ready in notice
For R2 : Mr.J.Chandran

JUDGMENT

The claimant is the appellant in this appeal. The claimant has filed this appeal for enhancement of compensation awarded by the Tribunal. The appellant/claimant is aggrieved by the impugned Judgment and decree dated 07.12.2016 passed by the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai in M.C.O.P.No.3592 of 2013.



2. By the impugned Judgment and decree, the Tribunal has awarded total compensation of Rs.3,98,070/- under the following heads:-

Heads of Compensation	Amount Awarded by the Tribunal
Disability	Rs.1,20,000/-
Pain and Suffering	Rs. 40,000/-
Extra Nourishment	Rs. 4,000/-
Transport to Hospital	Rs. 4,000/-
Damages to clothes	Rs. 750/-
Attender Charges	Rs. 2,200/-
Medical Expenses	Rs.1,97,620/-
Future Medical Expenses	Rs. 5,000/-
Loss of Income	Rs. 19,500/-
Loss of Amenities	Rs. 5,000/-
Total	Rs.3,98,070/- Rounded to Rs.3,98,100/-

3. The appellant/claimant has prayed for enhancement of compensation considering the nature of injuries suffered by him. It is submitted that though the Tribunal has noted that the disability assessed by P.W.2-Doctor as 65%, the Tribunal erred in considering only 40% disability. It is further submitted that the Tribunal has not awarded appropriate compensation on the conventional heads and therefore prays for enhancement of compensation. It is further submitted that the Tribunal has also considered a meagre income of Rs.6,500/- to award loss of income for three months.

4. It is submitted that the appellant/claimant was a Proprietor of Vasan Printers and was having monthly income of Rs.15,000/- per month and therefore the Tribunal ought to have considered the same for awarding compensation.

5. Defending the impugned Judgment and decree, the learned counsel for the 2nd respondent/Insurance Company submits



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that the accident is of the year 2013 and the Tribunal has considered various parameters and awarded just compensation to the appellant/claimant and therefore prays for dismissal of the appeal.

6. I have considered the arguments advanced by the learned counsel for the appellant and the 2nd respondent. I have also perused the impugned Judgment and decree and the exhibits marked before the Tribunal. I have also perused the deposition of the witnessess tendered evidence before the Tribunal.

7. There is no dispute regarding the nature of injuries suffered by the appellant/claimant namely injury on the neck of femur bone. The appellant/claimant was initially treated in the Government Hospital, Chennai and thereafter shifted to a private hospital (Sai Ortho Care, T.Nagar) in Chennai and treated as an inpatient from 28.05.2013 to 03.06.2013 and was thereafter admitted again between 10.09.2014 to 13.09.2014.

8. Considering the fact that the nature of injuries and the Disability Certificate given by P.W.2-Doctor, I am of the view, the Tribunal ought to have awarded a just compensation towards disability. Therefore, instead of Rs.1,20,000/-, the compensation awarded by the Tribunal under the head of disability, there shall be an enhancement of Rs.2,00,000/-.

9. The appellant/claimant is stated to be a Proprietor of Printing Centre, the Tribunal has awarded an amount of Rs.19,500/- towards loss of income. It would be fair to conclude that the appellant/claimant would have been out of action atleast for a period of six months due to the accident. Therefore, I am inclined to enhance the compensation towards loss of income of six months instead of three months by fixing the notional monthly income as Rs.10,000/- per month. Since, the amount awarded under the conventional heads are also meagre, there shall be a partial increase in the compensation.

10. Accordingly, the compensation of Rs.3,98,070/- awarded by the Tribunal is recomputed as follows:-



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11. The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.5,45,900/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

12. On such deposit being made by the 2nd respondent/Insurance Company, the appellant/claimant is permitted to withdraw the same together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

13. This Civil Miscellaneous Appeal stands partly allowed with the above observations. No costs.

Sd/-

Assistant Registrar(L.A)

// True Copy //

Sub Assistant Registrar

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To:

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

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

+1cc to M/s.J.Chandran, Advocate, S.R.No.23427

+1cc to M/s.Amar D.Pandiya, Advocate, S.R.No.23287

C.M.A.No.4342 of 2019

VSN-II(CO)

RLP(29/10/2021)