



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1081 of 2014

P.Govindasamy

.. Appellant

Vs.

1.M.Mani

2.The Branch Manager,

The United India Insurance Company Limited,
No.6, Ganga Griha,
Nungambakkam High Road,
Chennai - 600 034.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.04.2011 made in M.C.O.P.No.930 of 2006 on the file of the Motor Accident Claims Tribunal, Principal District Court, Krishnagiri.

For Appellant : Mr.Mukund R.Pandiyan
for Mr.M.Sriram

For R1 : No appearance

For R2 : Mr.M.J.Vijayaraghavan

J U D G M E N T

(The matter is heard through "Video Conferencing/Hybrid mode".)

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the Tribunal in the award dated 06.04.2011 made in M.C.O.P.No.930 of 2006 on the file of the Motor Accident Claims Tribunal, Principal District Court, Krishnagiri.

2.The appellant is the claimant in M.C.O.P.No.930 of 2006 on the file of the Motor Accident Claims Tribunal, Principal District Court, Krishnagiri. He filed the above said claim petition, claiming a sum of Rs.6,00,000/- as compensation for



the injuries sustained by him in the accident that took place on 15.12.2003.

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 Tractor belonging to 1st respondent and directed the respondents 1 & 2 to jointly and severally pay a sum of Rs.1,09,840/- as compensation to the appellant.

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 in the accident, the appellant suffered grievous injuries and the Tribunal has awarded meagre amount as compensation. The appellant was an Agriculturist and also doing Coconut Business in large scale at the time of accident. Due to the injuries sustained by him in the accident, he could not continue his work as he was doing earlier. Therefore, the Tribunal ought to have adopted multiplier method and awarded compensation for future loss of income. The amounts awarded by the Tribunal towards pain and sufferings, extra nourishment, transportation, attendant charges and loss of amenities are meagre. The appellant has taken treatment in St.John Medical College Hospital, Bangalore as inpatient from 15.12.2003 to 02.02.2004. P.W.2/Doctor examined the appellant and certified that the appellant suffered 45% disability. The Tribunal without giving any valid reason, reduced the percentage of disability to 25% and granted compensation only for 25% at the rate of Rs.1,500/- and the same is meagre. The Tribunal ought to have awarded compensation for 45% disability. The rate of interest awarded by the Tribunal at 6% per annum is meagre and prayed for enhancement of compensation.

6.Though notice has been served on the 1st respondent and his name is printed in the cause list, there is no representation for him, either in person or through counsel.

7.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal reduced the percentage of disability assessed by P.W.2/Doctor from 45% to 25% on the ground that P.W.2/Doctor has assessed the percentage of disability of the appellant exorbitantly. Hence, the appellant is not entitled to compensation for 45% disability. The appellant has not proved that he lost his income during treatment period.



Hence, he is not entitled to any compensation towards loss of income. Further, the appellant has not proved that he suffered functional disability. Therefore, the appellant is not entitled to any amount towards future loss of income by adopting multiplier method. The Tribunal considering the entire materials on record, has awarded a sum of Rs.1,09,840/- as compensation, which is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

8. 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.

9. From the materials available on record, it is seen that it is the case of the appellant that in the accident he sustained grievous injuries all over the body. P.W.2/Doctor examined the appellant and certified that appellant suffered 45% disability and issued Ex.A6/disability certificate to that effect. The Tribunal reduced the percentage of disability from 45% to 25% on the ground that P.W.2/Doctor has assessed the percentage of disability of the appellant exorbitantly. The reason given by the Tribunal for reducing the percentage of disability from 45% to 25% is not correct. The 2nd respondent/Insurance Company has not let in any evidence to disprove the evidence of P.W.2/Doctor and Ex.A6/disability certificate. Therefore, the appellant is entitled to compensation for 45% of disability. The accident is of the year 2003 and a sum of Rs.1,500/- awarded by the Tribunal per percentage of disability is not meagre. Thus, the compensation awarded by the Tribunal towards disability is enhanced to Rs.67,500/- (Rs.1,500/- X 45% of disability). The appellant has not proved that he suffered functional disability and lost his earning capacity. Hence, he is not entitled to any compensation towards future loss of income by adopting multiplier method.

10. It is the contention of the appellant that at the time of accident, he was aged 43 years, an Agriculturist and also doing Coconut Business in large scale and was earning a sum of Rs.8,000/- per month. The appellant has not produced any documentary evidence to prove his avocation and income. The accident occurred in the year 2003. Considering the year of accident, age and nature of work done by the appellant, a sum of Rs.5,000/- per month is fixed as notional income of the appellant. The appellant has taken treatment in St. John Medical College Hospital, Bangalore as inpatient from 15.12.2003 to 02.02.2004. Further, the appellant underwent three surgeries



during the treatment period. Considering the nature of work, disability and period of treatment taken by the appellant, he would not have attended his work atleast for a period of six months. Therefore, the appellant is entitled to a sum of Rs.30,000/- (Rs.5,000/- X 6 months) towards loss of income. Considering the nature of injuries, period of treatment taken and disability suffered by the appellant, the amounts awarded by the Tribunal towards extra nourishment and attendant charges are meagre and the same are enhanced to Rs.7,500/- each. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby 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.	Disability	37,500/-	67,500/-	Enhanced
2.	Pain and sufferings	15,000/-	15,000/-	Confirmed
3.	Medical expenses	28,340/-	28,340/-	Confirmed
4.	Transportation	3,000/-	3,000/-	Confirmed
5.	Future medical expenses	20,000/-	20,000/-	Confirmed
6.	Attendant charges	3,000/-	7,500/-	Enhanced
7.	Extra nourishment	3,000/-	7,500/-	Enhanced
8.	Loss of Income	-	30,000/-	Granted
	Total	Rs.1,09,840/-	Rs.1,78,840/-	Enhanced by Rs.69,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,09,840/- is hereby enhanced to Rs.1,78,840/- together with interest at the rate of 6% per annum from the date of petition till the date of deposit. The respondents 1 & 2 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.930 of 2006 on the file of the Motor Accident Claims Tribunal, Principal District Court, Krishnagiri. 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. It is made clear that the appellant is not entitled to any interest on the enhanced amount of Rs.69,000/- for the delay period as per the order of this Court dated 13.02.2014 made in M.P.No.1 of 2013 in C.M.A.SR.No.55269 of 2013. No costs.

Sd/-

Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

krk

To

1.The Principal District Judge,
Motor Accident Claims Tribunal,
Krishnagiri.

Copy To

The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.Mukund R.Pandiyan, Advocate SR.No.63064

C.M.A.No.1081 of 2014

VSN II(CO)
GN(20/01/2022)