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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.NO.28 OF 2014

Alamelu

...Appellant/Claimant

Vs.

1. Mustafa Ahmed Menon

2. Reliance General Insurance Co. Ltd.,
No.628, Anna Salai, Teynampet,
Chennai -18.

...Respondents/Respondents

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 11.09.2013 passed in M.C.O.P.No.1977 of 2011 by the VI Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For II respondent : Mr.V.Bharathidasan for R2
for Mr.S.Arunkumar

Notice unserved for R1



JUDGMENT

Not satisfied with quantum of compensation awarded by the Tribunal, the claimant is before this court seeking enhancement of compensation.

2. The claimant has filed a claim petition before Tribunal seeking compensation of Rs.3,50,000/- for the injuries sustained by him in a road accident that took place on 19.04.2011.

3. The brief case of the claimants is as follows: On 19.04.2011 at about 17.00 hours, the petitioner was crossing the Usman Road slowly from Mothilal Street towards Ranganathan Street, at that time, a Tata 407 vehicle bearing registration No.TN-20-AS-9676 came rashly and negligently and hit the claimant, thereby, she sustained grievous injuries. According to the claimant, the rash and negligent driving of the driver of the Tata vehicle was the cause of accident and since the first respondent/ owner of the vehicle insured his Tata Van with the second respondent/ insurance company, both of them are liable to pay compensation.

4. The respondents were set exparte before Tribunal.

5. Before Tribunal, on the side of the claimant, two witnesses were examined as PW1 and PW2 and Ex.P1 to Ex.P12 were marked. On the side of the respondents, no oral and documentary evidence was adduced.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.75,000/- to the claimant under various heads as extracted hereunder.

S1 No	Heads	Amount in Rs.
1	Transportation charges	5,000
2	Attender's charges	5,000
3	Extra nourishment and Damages to clothes	5,000



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Sl No	Heads	Amount in Rs.
4	Medical expenses	25,000
5	Pain and sufferings	15,000
6	Disability 15x1000	15,000
7	Loss of amenities	5,000
	Total	75,000

Aggrieved over the compensation awarded by the Tribunal, the claimant has filed the present appeal to enhance the compensation.

7. Heard the learned counsel for the appellant and the learned counsel for the second respondent/insurance company. I have perused the materials on record.

8. The learned counsel appearing for the appellant submitted that though the Doctor, assessed the disability suffered by the claimant as 20%, the Tribunal has reduced the disability to 15%, which is erroneous. Further, the Tribunal has not awarded any amount towards "Loss of earning capacity" and the compensation awarded under the heads are also very meagre and hence, he prayed for enhancement of compensation.

9. The learned counsel appearing for the respondent/ insurance company would submit that he Tribunal after considering the oral and documentary evidence on record, the Tribunal has awarded a just and reasonable compensation and therefore, the award passed by the Tribunal does not warrant any interference by this court.

10. Now the point for consideration is whether the compensation awarded by the Tribunal has to be enhanced.

11. Point

The Doctor K.J.Mathiazhagan was examined as PW2 and he had given disability certificate Ex.P12, wherein, he assessed the disability suffered by the claimant as 20%. He also deposed about the injuries sustained by the claimant. However, the Tribunal has reduced the same to 15%, without any



basis. Therefore, as per the evidence of PW2 as well as the disability certificate Ex.P12, this court fixed the disability at 20% and awarded a sum of Rs.1,000/- per percentage. Accordingly a sum of Rs.20,000/- is awarded towards " permanent disability". Further, no amount was awarded towards " Loss of earning capacity" and hence a sum of Rs.5,000/- is awarded for the above said head. Apart from the above, the compensation awarded under the other heads also needed some enhancement. Accordingly, the revised compensation awarded under various heads is extracted hereunder.

Sl.No	Heads	Compensation Awarded by the Tribunal	Compensation enhanced/ Awarded by this court
1	Transportation charges	5,000	5,000
2	Attender's charges	5,000	5,000
3	Extra nourishment and Damages to clothes	5,000	10,000
4	Medical expenses	25,000	25,000
5	Pain and sufferings	15,000	25,000
6	Disability	15,000	20,000
7	Loss of amenities	5,000	10,000
8	Loss of earning capacity	-	5,000
	Total	75,000	1,05,000

This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

12. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is enhanced from 75,000/- to Rs.1,05,000/-. No costs.

(ii) The insurance company is directed to deposit the revised compensation of Rs.1,05,000/- with interest at the rate of 7.5.% p.a. from the date of claim petition till



the date of deposit, less the amount if already deposited, within a period of six weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the insurance company, the claimant is entitled to withdraw the same, after following due process of law.

Sd/-

Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

mst

To

The VI Judge, Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.

+2ccs to M/s.V.Mohan Choudary, Counsel for the Appellant,
S.R.No.20502

+1cc to M/s.S.Arunkumar, Counsel for the Respondent,
S.R.No.20345

CMA. No.28 of 2014

KJ(CO)
RLP(28/09/2021)