

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A. No. 2592 of 2021

1. P. Rajesh Kanna ... Appellant/Claimant

Vs

1. A. Settu

2. The United Insurance Co., Ltd.,
No.134, Silingi Building,
Greaves Road,
Chennai - 600 006. ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Decree and Judgment dated 11.11.2020 to enhance the amount awarded in M.C.O.P. No. 4872 of 2017, on the file of Motor Accident Claims Tribunal (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai.

For Appellant : Mr. U. Chithambaram

For Respondent1 : Not ready in Notice.

For Respondent 2 : Mr. D. Venkatachalam

JUDGMENT

This appeal has been filed by the claimant, seeking enhancement of compensation under the impugned award dated 11.11.2020, passed by the Motor Accidents Claims Tribunal (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai in M.C.O.P. No. 4872 of 2017.

2. The appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this appeal, seeking for enhancement of compensation. The details of compensation awarded by the Tribunal in favour of the appellant/claimant are as follows:

Heads	Amount awarded by the Tribunal (Rs.)
Disability	30,000/-
Pain and Sufferings	20,000/-
Transportation	3,000/-
Extra Nourishment	10,000/-
Medical Expenses	6,882/-
Attender charges	1,250/-
Loss of future prospectus	20,000/-
Total Compensation	91,132/-

3. The appellant/claimant sustained fracture of both bones on the right leg, fracture 3 & 4 on Metatarsal Right Leg, Head injury and multiple injuries all over the body as a result of an accident on 20.11.2016, caused by a vehicle, insured with the second respondent. The cause of the accident has not been disputed by the respondents.

4. The only question that arises for consideration is whether the appellant/claimant is entitled for enhancement of compensation.

5. The Medical Board assessed the disability of the appellant/claimant at 10%. The Tribunal has accepted the same. This Court after giving due consideration to the nature of injuries sustained by the appellant/claimant and in view of the fact that the assessment has been made by the Medical Board, the disability assessment as fixed by the Tribunal is confirmed by this Court.

6. The accident having happened in the year 2016, the Tribunal ought to have awarded a higher compensation towards disability to the appellant/claimant. The Tribunal has assessed the disability compensation at Rs.3,000/- (Rupees Three Thousand only) per percentage of disability which has to be enhanced to Rs.4,000/-. Accordingly, the disability compensation awarded by the Tribunal to the appellant/claimant is enhanced to Rs.40,000/-(Rupees Forty Thousand only) calculated at Rs.4,000/- per percentage of disability at 10% disability suffered by the appellant/claimant instead of Rs.30,000/- erroneously assessed by the Tribunal, calculated at Rs.3,000/- per percentage of disability.

7. The Tribunal has awarded a lesser compensation of Rs.20,000/- towards pain and sufferings. After giving due

consideration to the nature of injuries sustained by the appellant/claimant, this Court enhances the compensation towards pain and sufferings to Rs.35,000/- (Rupees Thirty Five Thousand only) instead of Rs.20,000/- erroneously fixed by the Tribunal.

8. Similarly, the Tribunal has awarded a lesser compensation towards transportation at Rs.3,000/-, which has to be enhanced to Rs.10,000/-. Accordingly, this Court enhances the compensation towards transportation at Rs.10,000/- (Rupees Ten Thousand only).

9. Insofar as the compensation awarded by the Tribunal towards extra nourishment and Medical Expenses at Rs.10,000/- and Rs.6,882/- respectively, this Court is of the considered view that the said assessment made by the Tribunal is a correct assessment and there is no scope for interference and therefore the same is confirmed by this Court.

10. The Tribunal has erroneously awarded a lesser compensation towards attender charges at Rs.1,250/-. After giving due consideration to the nature of injuries sustained by the appellant/claimant and the evidence available on record, this Court enhances the compensation towards attender charges to Rs.10,000/- (Rupees Ten Thousand only) instead of Rs.1,250/- erroneously fixed by the Tribunal.

11. The Tribunal has awarded a compensation of Rs.20,000/- towards loss of future prospects. This Court is of the considered view that the nature of injuries sustained by the appellant/claimant does not entitle him to get loss of future prospects, but entitled only to get compensation towards loss of amenities. Since the Tribunal has granted a compensation of Rs.20,000/- towards loss of future prospects erroneously, this Court modifies the said compensation towards loss of amenities instead of loss of future prospects.

12. For the foregoing reasons, compensation awarded by the Tribunal is enhanced to Rs.1,31,882/- (Rupees One Lakh Thirty One Thousand Eight Hundred Eighty Two only) instead of Rs.91,132/- (Rupees Ninety One Thousand One Hundred Thirty Two only), erroneously fixed by the Tribunal as detailed hereunder:-

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
Disability	30,000/-	40,000/-	Enhanced
Pain and Sufferings	20,000/-	35,000/-	Enhanced

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
Transportation	3,000/-	10,000/-	Enhanced
Extra Nourishment	10,000/-	10,000/-	Confirmed
Medical Expenses	6,882/-	6,882/-	Confirmed
Attender charges	1,250/-	10,000/-	Enhanced
Loss of future prospectus/amenities	20,000/-	20,000/-	Enhanced
Total Compensation	91,132/-	1,31,882/-	Enhanced

* 12. Accordingly, this Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount from Rs.91,132/- (Rupees Ninety One Thousand One Hundred Thirty Two only) to Rs.1,31,882/- (Rupees One Lakh Thirty One Thousand Eight Hundred and Eighty Two only). However, the pay and recovery rights granted to the second respondent / Insurance Company by the Tribunal under the impugned Award is confirmed by this Court.

13. The 2nd respondent Insurance Company is directed to deposit the compensation amount of Rs.1,31,882/- (Rupees One Lakh Thirty One Thousand Eight Hundred Eighty Two only), awarded by this Court, after deducting the amount already deposited if any, together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs, to the credit of M.C.O.P. No.4872 of 2017 within a period of four weeks from the date of receipt of a copy of this Judgment and thereafter recover the same from the owner of the vehicle. On such deposit being made, the Tribunal shall transfer the amount lying to the credit of MCOP. No. 4872 of 2017 to the bank account of the claimant through RTGS within a period of two weeks thereafter. No costs.

Sd/-

Assistant Registrar (CS-V)
dated: 15.11.2021

//True copy//

*Corrected as per order dated
09.12.2021 in CMA.No.2592/2021

Sd/-

Assistant Registrar (CS-V)

dated: 02.02.2022

Sub Assistant Registrar

vsi2

To

1. Motor Accidents Claims Tribunal,
Special Sub Court No.1,
Motor Accidents Claims Petitions,
Small Causes Court, Chennai.

*** To be Substituted
to the order
already despatched
on 08.12.2021**

+1cc to Mr.U. Chithambaram, Advocate SR.No.56507

C.M.A. No. 2592 of 2021

RSV(CO)
GMY(25/11/2021)

PPA(CO)
SU(15/03/2022)