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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.NO.1727 OF 2020

Udayaraj

.. Appellant/Petitioner

Vs.

1. Dr.A.Vijay

2. Rep by its Manager,
M/s.Future General Insurance Co. Ltd.,
2nd Floor, Srivari Shopping Mall,
No.2/9, New Bus Stand, Main Road,
Near ARRS Multiplex,
Salem - 636 004.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P. No.228 of 2017 dated 12.12.2019 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Perambalur.

For Appellant : Mr.P.Mani

For Respondent-2 : Mr.M.B.Raghavan

For Respondent-1 : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 12.12.2019 made in M.C.O.P.No.228 of 2017 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Perambalur.



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2. The appellant is the claimant in M.C.O.P.No.228 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Perambalur. He filed the above said claim petition, claiming a sum of Rs.15,00,000/- as compensation on account of the injuries sustained by him in the accident that took place on 27.11.2016.

3. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the Car bearing registration No.TN-30 BD-2743, who is the first respondent herein and directed the 2nd respondent-Insurance Company to pay a sum of Rs.4,73,500/- 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 the Claims Tribunal had not awarded any compensation towards loss of amenities, Attendant charges and future medical expenses by considering the fact that the claimant cannot walk as before and underwent two operations at his left leg and right thigh. He further submitted that the amount of compensation awarded towards other heads are also very low and hence prayed for enhancement of compensation.

6. The learned counsel appearing for the 2nd respondent-Insurance Company submitted that the Claims Tribunal on considering the oral and documentary evidence has rightly awarded the compensation and therefore the same need not be interefered with.

7. 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.

8. It is the case of the appellant that the Claims Tribunal has not granted compensation towards Loss of Amenities, Attendent charges and Future Medical Expenses.

9. Considering the nature of injury sustained by the appellant/claimant, the Tribunal has fixed the disability as 40%



and awarded a sum of Rs.1,20,000/- by taking Rs.3,000/- per disability under the said head. Considering the age and the fact that the appellant is an Engineering Graduate, this Court is inclined to enhance the amount to Rs.5,000/- per disability. Moreover, it is observed that the appellant had marked Ex.P10-Letter from the hospital to prove the future medical expenses and considering the same a sum of Rs.50,000/- is awarded towards Future Medical Expenses. Further, by considering the nature of injuries sustained by the appellant/claimant a sum of Rs.15,000/- is awarded towards Loss of Amenities and a sum of Rs.25,000/- is awarded towards attender charges. The compensation with respect to Pain and sufferings is enhanced to Rs.15,000/- .

10. 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.	Pain and sufferings	10,000/-	15,000/-	Enhanced
2.	Nutrition and Transport charges	12,500/-	12,500/-	Confirmed
3.	Mental agony	10,000/-	10,000/-	Confirmed
4.	Medical Expenses	3,21,000/-	3,21,000/-	Confirmed
5.	Permanent Disability & Loss of Earning Power	1,20,000/- (Rs.3,000 x 40)	2,00,000/- (Rs.5,000 x 40)	Enhanced
6.	Loss of amenities	Nil	15,000/-	Granted
7.	Attender charges	Nil	25,000/-	Granted
8.	Future Medical Expenses	Nil	50,000/-	Granted
	Total	Rs.4,73,500/-	Rs.6,48,500/-	Enhanced by Rs.1,75,000/-



11. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.4,73,500/- is hereby enhanced to Rs.6,48,500/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The 2nd respondent-Insurance Company is 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 eight weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.228 of 2017 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate Court), Perambalur. 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 appellant is directed to pay the necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

rsi

To

The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal,
Perambalur.

Copy To

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

+1cc to Mr.P.Mani, Advocate, S.R.No.38431

C.M.A.No.1727 of 2020

AJS(CO)
RLP(21/10/2021)