IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.3031 OF 2021

P.Prabhu ... Appellant

Vs

1. S.Muralichandar @ Murali

2. B.Sreenivasan

3. DM, The New India Assurance Co. Ltd.,
   DO.30 JN Street,
   Pondicherry - 650 001. ... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and enhance the compensation in M.C.O.P. No. 2763 of 2016 dated 08.01.2021 on the file of the Motor Accidents Claims Tribunal (Special Sub-Court, Cuddalore).

For Appellant : M/s.Ramya V.Rao

JUDGMENT

This appeal has been filed by the appellant/claimant, seeking enhancement of compensation under the impugned award dated 08.01.2021 in M.C.O.P.No. 2763 of 2016, passed by the Motor Accidents Claims Tribunal (Special Sub Court, Cuddalore).

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

Heads	Amount awarded by the Tribunal (Rs.)
Loss of income (Rs.12,000/- x12x16x30/100)	6,91,200/-
Pain and Sufferings	30,000/-
Transportation	5,000/-
Extra Nourishment	10,000/-
Medical Expenses	10,000/-
Medical Bills	1,48,870/-
Total Compensation	8,95,070/-

3. The appellant/claimant was a Mason at the time of the accident, which happened on 15.06.2015. The accident happened due to the rash and negligent driving by the driver of the car, insured with the third respondent Insurance Company. The Tribunal under the impugned order has given a categorical finding that the driver of the insured car was alone responsible for the cause of the accident, which resulted in the appellant/claimant sustaining injuries.

4. Since the accident happened in the year 2015, and the appellant/claimant was a Mason, aged 32 years, this Court of is of the considered view that the assessment of the notional monthly income of the appellant/claimant at Rs.12,000/- (Rupees Twelve Thousand only), is a correct assessment made by the Tribunal. Therefore, the same is confirmed by this Court.

5. The appellant/claimant has sustained six fractures as a result of the accident caused by the insured car. As seen from the evidence available on record, the nature of injuries sustained by the appellant/claimant has not been disputed by the third respondent Insurance Company. The appellant/claimant was hospitalized for 32 days. He has also filed discharge summaries issued by the hospitals which have been marked as Exs.P.4 and P.7 before the Tribunal. The period of hospitalization of the appellant/claimant has not been disputed by the third respondent Insurance Company, as seen from the evidence available on record.

6. The Medical Board has assessed the whole body disability of the appellant/claimant at 30% and the disability certificate issued by the medical board has been marked as Ex.C1

before the Tribunal. The Tribunal has accepted the same and assessed the disability of the appellant/claimant at 30%. This Court does not find any scope for interference with regard to the assessment of disability of the appellant/claimant as the said assessment has been done only based on the Medical Board's report. Accordingly, the same is confirmed by this Court.

7. The appellant/claimant was aged 32 years at the time of the accident and the Tribunal has correctly adopted the multiplier of 16 while assessing the loss of earning capacity of the appellant/claimant and therefore the same is confirmed by this Court.

8. The Tribunal has awarded a compensation of Rs.6,91,200/- (Rupees Six Lakhs Ninety One Thousand Two Hundred only) to the appellant/claimant towards loss of earning capacity which is a correct assessment and therefore the same is confirmed by this Court.

9. The Tribunal has awarded a compensation of Rs.30,000/- (Rupees Thirty Thousand only) towards pain and sufferings, Rs.10,000/- (Rupees Ten Thousand only) towards future medical expenses which has been supported by the medical bills, Rs.5,000/- (Rupees Five Thousand only) towards transportation charges, Rs.10,000/- (Rupees Ten Thousand only) towards extra nourishment and Rs.1,48,870/- (Rupees One Lakh Forty Eight Thousand Eight Hundred and Seventy only) towards reimbursement of medical bills (medical bills marked as Ex.P.9) which cannot be considered to be inadequate, as alleged by the appellant/claimant. The said assessment made by the Tribunal is just compensation and there is no scope for interference.

10. The overall compensation of Rs.8,95,070/- (Rupees Eight Lakhs Ninety Five Thousand and Seventy only) determined by the Tribunal in favour of the appellant/claimant cannot be considered to be inadequate as alleged by the appellant/claimant. Therefore, there is no merit in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs.

11. The third respondent Insurance Company is directed to deposit the determined compensation amount Rs.8,95,070/- (Rupees Eight Lakhs Ninety Five Thousand and Seventy only) as determined by the Tribunal together with interest and costs, after deducting the amount already deposited if any, to the credit of M.C.O.P. No. 2763 of 2016 on the file of the Motor Accidents Claims Tribunal (Special Sub Court, Cuddalore) within a period of four weeks from the date of receipt of a copy of this

Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant, through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

rgi

To

1. Motor Accidents Claims Tribunal,
   Special Sub-Court, Cuddalore.

2. The Section Officer,
   V.R.Section, High Court, Madras - 104.

+2cc to M/s.Ramya V.Rao, Advocate, S.R.No.54944

C.M.A.No.3031 of 2021

PP(CO)
CS/26/11/2021