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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1772 of 2017

K.Subramani

...Appellant / Petitioner

Vs.

1.D.T.Dhinakaran

[R1-Already set exparte in Lower Court]

[R1-Notice may be Dispense with]

2.The Chairman and Managing Director,

United India Insurance Co., Ltd.,

No.24, Whites Road, Chennai-14. ...Respondents / Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Decree and Award dated 22.10.2016 passed in M.C.O.P.No.4453 of 2000 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Ms.Ramya for
Ms.Maithri Mahalingam

For Respondents : Ms.K.Saraswathi (R2)
R1-Experte vide on batta in Tribunal

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted vide award dated 22.10.2016 made in M.C.O.P.No.4453 of 2000 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

2. The claimant, aged 23 years, a shoes salesman, earning a sum of Rs.200/- per day met with an accident on



24.06.1999, due to which he sustained grievous injuries. Hence, he filed a claim petition, in M.C.O.P.No.4453 of 2000, before the Motor Accidents Claims Tribunal (II Small Causes Court), Chennai, seeking compensation for a sum of Rs.5,00,000/-.

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 van belonging to 1st respondent and directed the second respondent/Insurance Company to pay a sum of Rs.1,35,000/- (Rupees One Lakh Thirty Five Thousand) 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 P.W.3- the Doctor, after examining the claimant assessed the disability as 40%, but the Tribunal has taken the disability only @ 35%. He further submitted that when the Tribunal has not adopted the multiplier method, while determining the compensation, it ought to have taken the entire 40% disability as assessed by the Doctor, but taking 35% disability for the purpose of awarding compensation towards disability, is not proper. He further submitted that though the injuries sustained by the claimant are grievous in nature, which requires treatment for certain period, no compensation was awarded by the Tribunal towards future medical expenses. He further submitted that the attender charges awarded by the tribunal is very low and the same needs to be enhanced.

6. Per contra, the learned counsel appearing for the second respondent/Insurance company submitted that the the tribunal, on going through the entire materials on record had determined the disability at 35%, which is proper and the same does not warrant interference. He further submitted that the tribunal, on considering the nature of injuries sustained by the claimant awarded compensation towards attender charges, which is correct and further the tribunal had awarded compensation towards medical expenses and hence there is no need to compensation towards future medical expenses



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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. Considering the overall materials available on record and submissions made by the learned counsel appearing on either side, this Court is of the view that the Tribunal has not adopted the multiplier method for awarding the compensation towards disability, the Court should have taken the total disability assessed by the Doctor for the purpose of awarding lumpsum amount of compensation. Therefore, this Court is inclined to take disability @ 40% and taking 2,000/- per percentage of disability, the total amount comes to Rs.80,000/- (2000x40) and hence a sum of Rs.80,000/- is awarded towards disability. Since, no compensation was awarded towards future medical expenses, a sum of Rs.20,000/- is awarded under this head. Considering the nature of injuries sustained by the appellant, the attender charges awarded by the tribunal at Rs.1,300/- is enhanced to Rs.10,000/-. 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)
1.	Transportation, nourish food and miscellaneous expenditure	10,000/-	10,000/-
2.	Medical expenses	6,700/-	6,700/-
3.	Attender charges	1,300/-	10,000/-
4.	Disability	70,000/-	80,000/-
5.	Loss of earning during treatment period	12,000	12,000/-
6.	Damages for pain, suffering and Trauma	25,000	25,000/-
7.	Loss of amenities	10,000	10,000/-
8.	Future medical expenses	NIL	20,000/-
	Total	Rs.1,35,000/-	Rs.1,73,700/-



9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs1,35,000/- is hereby enhanced to Rs.1,73,700/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. The second respondent/Insurance Company is directed to deposit the enhanced award amount along with interest and costs now determined by this Court, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the entire award amount, along with interest and costs, less the amount if any, already withdrawn. The Tribunal is directed to transfer the entire award amount to the appellant by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained for the claimant or application made by the appellant for withdrawal, whichever is later. No costs.

Sd/-
Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

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To

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

C.M.A.No.1772 of 2017

NRL(CO)
RVM(08/09/2021)