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CMA.No.436 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Civil Miscellaneous Appeal No.436 of 2012

K.Gnanasekaran

... Appellant/Petitioner

..Vs..

1. A.Babu Lakshmanan

2. United India Assurance Company Ltd.,
No.58, Purasawakkan High Road,
Chennai – 600 007.

... Respondents/Respondents.

Prayer: This Civil Miscellaneous Appeal has been filed under section 173 of the Motor Vehicles Act 1988 to against the judgment and decree dated 28.07.2011 made in M.C.O.P.No.2996 of 2008 on the file of the Motor Accident Claims Tribunal – cum – Chief Small Causes Court, Chennai.

For Appellant : Mr.R.Rajaramani

For respondents : Mr.S.Arunkumar – for R2

J U D G M E N T



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The appellant-injured claimant has filed this Civil Miscellaneous Appeal, seeking enhancement of compensation.

2. The appellant as claimant filed MCOP.No.2996 of 2008 before the Tribunal, claiming Rs.20 lakhs as compensation for the injuries he sustained in the accident that occurred on 16.12.2007.

3. The Court below after considering the pleadings, counter, oral and documentary evidence of both sides, awarded a sum of Rs.2,50,000/- under the following heads:

S.No.	Particulars	Amount in Rs.
1.	Loss of earning during treatment period	10,000/-
2.	Transportation to hospital	10,000/-
3.	Extra Nourishment	10,000/-
4.	Damages to clothing and articles	3,000/-
5.	Medical expenses as per bills [Rs.76719/- rounded off Rs.77,000]	77,000/-
6.	Pain and sufferings	10,000/-
7.	Permanent disability	1,30,000/-
	Total	2,50,000/-

4. Feeling not satisfied with the award, the appellant/claimant has preferred this appeal before this Court.



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5. The learned counsel for the appellant/claimant submits that since the appellant requires future medical expenses, the amount of compensation granted by the tribunal requires enhancement.

6. The learned counsel for the second respondent submits that the award of the Tribunal is just and proper and needs no interference.

7. A perusal of the award would go to show that at the time of the accident, appellant was aged 20 years and that he was earning a sum of Rs.15,000/- per month, for which he produced Ex.P-22. Taking note of the same, this Court deems it fit to fix Rs.10,000/- as monthly income.

8. It is pointed out by the learned Judge, Tribunal that the doctor has not clearly deposed as to whether the petitioner was unable to continue the job he was carrying out before the accident due to the injuries sustained. Even though the appellant is carrying out his job and continuing in the same profession without any monetary loss, as per the medical records, the appellant undergone treatment as inpatient in the hospital for one and half months. Taking note of the same,



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Rs.15,000/- is now awarded by this Court instead of Rs.10,000/- awarded by the Tribunal under the head “loss of income during the period of treatment”.

9. The appellant sustained severe injury in the left leg and compound fracture in SOF and plate fixed. The Tribunal has awarded Rs.2,000/- towards per percentage of disability and arrived at the loss of income on account of permanent disability at Rs.1,30,000/- for 65% disability. This Court feels that a sum of Rs.3,000/- per percentage of disability would meet the ends of justice. Accordingly, the compensation towards 'Permanent Disability' is enhanced to Rs.1,95,000/- [65% x 3,000/-].

10. Insofar as the compensation awarded under other heads are concerned, compensation under Medical bills is confirmed, however, this Court is inclined to enhance under other heads as under :-

Transport to Hospital	-	Rs.20,000/-
Extra Nourishment	-	Rs.20,000/-
Damages to Clothing & Articles	-	Rs. 6,000/-
Pain & Suffering	-	Rs.20,000/-

11. Accordingly, the compensation awarded by the Tribunal is modified as under :-



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S.No.	Particulars	Amount in Rs.
1.	Loss of earning during treatment period	15,000/-
2.	Transportation to hospital	20,000/-
3.	Extra Nourishment	20,000/-
4.	Damages to clothing and articles	6,000/-
5.	Medical expenses as per bills	77,000/-
6.	Pain and suffering	20,000/-
7.	Permanent disability	1,95,000/-
	Total	2,76,000/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed. The appellant/claimant is entitled to enhanced compensation of Rs.2,76,000/-. The second Respondent is directed to deposit the enhanced award amount, together with interest at 7.5% per annum from the date of the Claim Petition till the date of deposit, less the amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is entitled to withdraw the same along with interest. No costs.

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mvs/nvsri



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J.NISHA BANU, J.

mvs/nvsri

To

- 1.The Motor Accident Claims Tribunal – cum –
Chief Small Causes Court, Chennai.
- 2.The Section Officer, V.R.Section, High Court of Madras.

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16/3/2022