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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

C.M.A. No.2598 of 2019

N.Panneerselvam

... Appellant/ Petitioner

Vs

1. R.Vinoth Kumar

2. The New India Assurance Company Limited
Egmore Branch Casa Blanca
No.6, Casa Major Road 1st Floor
Egmore, Chennai.

... Respondents/Respondents

PRAYER: Petition filed under Section 173 of Motor Vehicle Act, to set aside the Order and Decree dated 18.09.2018 made in MCOP No.8889 of 2015 (On the file of the MACT Special Judge - I) Small Causes Court Chennai.

For Petitioner : Mr.J.Ram

For Respondents : Mr.S.S.Senthilnathan [R.1]
Mr.M.Krishnamoorthy [R.2]

JUDGEMENT

The claimant has challenged the award passed by the Motor Accident Claims Tribunal 1st small causes Court Chennai on the ground that the award amount is very low. The brief facts which has resulted in the filing of the appeal are as follows.

2. The appellant claimant had filed MCOP.No.8889 of 2015 on the file of the Motor Accident Claims Tribunal Chennai, claiming compensation for the injuries sustained by him in a road traffic accident that occurred on 11.10.2015. The Claimant was a pedestrian who was crossing the road with his family members. At that time a motor bike belong to the 1st respondent driven by its driver in a rash and negligent manner hit the petitioner causing grievous injuries to him. The appellant had claimed a



sum of Rs.25,00,000/- as compensation. The 1st respondent had remained ex-parte and the 2nd respondent/ Insurance company who had contested the claim, had denied the accident, the amount claimed as compensation and also the fact that the driver of the 1st respondent vehicle was negligent.

3. The Tribunal after taking into account the evidence had held negligence with the driver of the 1st respondent's motor cycle and taking into account the evidence on record, assessed the disability at 10% though, the Doctor had assessed the same at 25% under Ex.P.15. P.W.2, the doctor who had issued the disability certificate had also been examined. The notional income had been fixed at Rs.3,000 and applying a percentage basis arrived at a compensation of Rs.30,000. Various other amounts had been awarded under the conventional heads.

4. The learned counsel for the appellant would submit that the accident was of the year 2015 and the income ought to have been fixed at Rs.4,000/-. The tribunal has erred in overlooking the disability assessed at 25%. That apart, very meagre amounts have been granted under the other heads.

5. The learned counsel appearing for the Insurance Company Mr. M.Krishnamoorthy fairly conceded that the income for calculating the compensation for disability on a percentage basis ought to have been fixed at Rs.4,000/-. With reference to the other heads the counsel would submit that reasonable amounts have been given.

6. Heard the learned counsels.

7. The disability certificate and the evidence of P.W. 2, doctor. would show that the petitioner has sustained grievous injuries therefore, the tribunal below ought to have assessed disability of 20% . Therefore, the amount under the head of disability is enhanced to a sum of Rs.80,000/- (4,000 X 20). Likewise the amount under the head of pain and sufferings is enhanced to a sum of Rs.30,000/- . An additional sum of Rs.5,000/- is awarded under the head of transportation since the claimant was admitted as in patient at APPOLO Hospital for over 7 days and attender charges is also enhanced to a sum of Rs.5,000/-. The claimant is not entitled to any amount under the head of loss of future prospects therefore, the modified award would read as follows.



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S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Disability	30,000/-	80,000/-	Enhanced
2.	Pain and Sufferings	20,000/-	30,000/-	Enhanced
3.	Extra Nourishment	10,000/-	10,000/-	Confirmed
4.	Transportation	5,000/-	10,000/-	Enhanced
5.	Medical Bills	18,542/-	18,542/-	Confirmed
6.	Attender Charges	1,750/-	5,000/-	Enhanced
7.	Loss of earnings	20,000/-	20,000/-	Confirmed
8.	loss of Future Prospects	10,000/-	NIL	Deleted
	TOTAL	1,15,292/- rounded off to 1,15,300/-	1,73,542/- rounded off to 1,74,000/-	Enhanced by Rs.58,250/-

7. Therefore, the Civil Miscellaneous Appeal is allowed and the compensation of Rs.1,15,300 /- awarded by the Tribunal is hereby enhanced by a sum of Rs.1,74,000 /- together with interest @ 7.5 % per annum from the date of petition till the date of deposit. In all other aspects the award of the Tribunal is confirmed. The 2nd respondent/ Insurance Company is directed to deposit the said amount (Rs.1,74,000/-) to the credit of M.C.O.P.No.8889 of 2019 on the file of the Motor Accident Claims Tribunal (Special Judge -I), Small Causes Court, Chennai together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimants are permitted to withdraw the amount now determined by this Court, along with interest and costs, after adjusting the amount if any already withdrawn. The proportion of allocation of shares adopted by the Tribunal shall stand confirmed. The claimants



shall pay the court fee for the enhanced amount, if payable. The Trial Court shall not disburse the amount till such time as the certified copy showing proof of payment of the entire Court fee has been produced by the claimant. No costs.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. MACT Special Judge - I
Small Causes Court,
Chennai.

Copy to:

The Section Office,
V.R.Section,
High Court, Madras.

+1cc to Mr.M.Ramesh & J.Ram, Advocate, S.R.No.18106

C.M.A. No.2598 of 2019

RSI (CO)
CT(26/05/2022)