



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.3614 of 2019

Suresh

.. Appellant / Petitioner

-Vs.-

1.Panimalar Engineering College,
No.4/26, P.K.Street, Gudapakam,
Kandigai, Gudapakam,
Puduchathiram,
Chennai - 602 107.

(Since R1 remained exparte before the Tribunal, his presence may be dispensed with)

2. The Oriental Insurance Company Limited,
No.216, Pragasa Salai,
Chennai - 600 001.

...Respondents / Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 17.07.2018 and made in M.A.C.T. O.P. No.2933 of 2016 on the file of the Motor Accident Claims Tribunal, the IV Court of Small Causes, Chennai.

For Appellant	:	M/s.A.Subadra
For Respondent-1	:	Exparte
For Respondent-2	:	Mr.K.Vinod

J U D G M E N T

The claimant has filed this appeal seeking enhancement of the compensation granted by the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai in M.C.O.P.No.2933 of 2016 dated 17.07.2018.

2. The grievance of the claimant is that the Tribunal had not taken into consideration the fact that he has suffered permanent disability, which has impaired his functioning as before and ought to have adopted a multiplier method instead of percentage basis, now taken. The learned counsel for the



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claimant would also submit that the amounts granted under the head of pain and suffering and attender charges were rather low, taking into account the fact that the claimant was in hospital for about three days and another five days, spread over two sessions.

3. Mr.K.Vinod, learned counsel appearing on behalf of the second respondent-Insurance Company would submit that the award of the Tribunal below is very much in consonance with the injuries suffered. He would submit that there is no proof let in by the appellant to show that the injuries has resulted in functional impairment. The injury that the appellant has sustained is only to his right fore arm and the same has been rectified through a surgery wherein, the mal-union was fixed by an eight holed union D.C.P and by bone grafting, due to which, wound has been closed by layers. The appellant has been hospitalized initially for three days in the Chengalpet Medical College Hospital, where no surgery had been undertaken and he was only advised a chest physiotherapy and consumption of medicines. Thereafter, he has been admitted in S.S. Hospital, Dindigul for eight days, where he was admitted on 16.07.2015 and surgery had been done on him on 17.07.2015 and was discharged on 21.07.2015. Therefore, he would submit that there is no necessity to modify the order of the Tribunal.

4. Heard the learned counsel for the appellant and the learned counsel for the second respondent. The first respondent remained ex-parte before the Tribunal below.

5. Admittedly, the appellant had been hospitalized first for three days, where no surgery had been undertaken and thereafter for five days, when a small procedure has been done on the appellant. However, neither does the discharge summary show that the appellant has suffered permanent disability nor has the appellant let in any evidence to show that the accident has resulted in his not being able to function as before. Therefore, the appellant is only entitled to be compensated on a percentage basis.

6. Considering the fact that the claimant has been hospitalized for eight days, percentage of disability can be increased to 30% and the notional income to Rs.4,000/-. Therefore, the amount under that head should be enhanced to a sum of Rs.1,20,000/- (Rs.4,000/- x 30) as against Rs.75,000/-. Since he has been admitted for eight days, the attender charges has to be enhanced to a sum of Rs.10,000/-. Amounts under the head of damages for pain, suffering and trauma has also to be enhanced to a further sum of Rs.10,000/-. Therefore, the amount of compensation is enhanced to a sum of Rs.2,92,617/- as follows:



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Heads	Amount in Rs.
Transportation and nourishing food	10,000
Attender Charges	10,000
Medical expenses	37,617
Disability	1,20,000
Loss of Earning	45,000
Damages for pain, suffering and trauma	50,000
Loss of Amenities	20,000
Total	2,92,617

7. The appeal is partly allowed and the Award of the Tribunal is modified, enhancing the compensation amount from Rs.2,30,617/- to Rs.2,92,617/-. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.2933 of 2016 along with interest at the rate of 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 judgment. On such deposit being made, the claimant is permitted to withdraw the award amount, along with accrued interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn, by filing necessary application before the Tribunal. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimant. In other respects, the Award of the Tribunal is hereby confirmed. There shall be no order as to costs in the present appeal.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ab/srn



To

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

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Copy to
The Section Officer,
VR Section,
High Court, Madras - 104.

+lcc to M/s.A.Subadra , Advocate, S.R.No.20289
+lcc to Mr.Ekaveera Ravindran, Advocate, S.R.No.19866

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