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C.M.A.No.2406 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.2406 of 2021

Sadam Husaain

... Appellant

Vs.

1.K.Leena

2.L&T General Insurance Company Limited,
No.6th Floor, Trade Centre,
Bandra Kurla Complex,
Mumbai – 400 051.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to enhance the award dated 29.09.2020 and made in MACTOP No.6100 of 2016 on the file of the Motor Accident Claims Tribunal, II Special Judge, Small Causes Court, Chennai.



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For Appellant : M/s S.R.Suga

For Respondents : Mr.K.Poomalai for R2
R1 – Dispensed with

JUDGMENT

[Judgment of the Court was delivered by K.KALYANASUNDARAM, J.]

Heard M/s.S.R.Suga, learned counsel appearing for the appellant and Mr.K.Poomalai, learned counsel appearing for the second respondent and perused the materials available on record.

2.The appellant is the claimant in MCOP No.6100 of 2016 on the file of the Motor Accident Claims Tribunal, II Special Judge, Small Causes Court, Chennai. He sought compensation of Rs.20,00,000/- for the injuries sustained in the accident, which had taken place on 31.05.2016. The Tribunal, after evaluating the evidence adduced by the parties, awarded Rs.1,95,750/-. Seeking enhancement of compensation, the present appeal has been filed.



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3.The learned counsel appearing for the appellant would submit that the appellant suffered injuries on 31.05.2016 and he took treatment as inpatient for a total period of 90 days and during the treatment period, he underwent two surgeries and plates were also fixed. It is next submitted that the claimant could not continue his education, but the Tribunal without taking note all these aspects, has applied percentage method to assess the compensation. According to the learned counsel, notional income can be fixed as Rs.15,000/- per month and by applying multiplier method, reasonable compensation can be awarded. It is also stated that in all other aspects, the award amount is very meagre.

4. Per contra, the learned counsel appearing for the second respondent would state that there is no doubt that the appellant was a student and he sustained injuries in the accident, but it is not a fit case for applying multiplier method.



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5. We have considered the rival submission of both the learned counsel and perused the materials available on record.

6. There is no dispute that the appellant sustained injuries in the accident on 31.05.2016. A Car bearing Reg.No.TN-07-BJ-3173 hit against the two wheeler, which was driven by the appellant. It is also not in dispute that at the time of accident, the claimant was 22 years old and he was pursuing B.E., at Thagavel Engineering College, Chennai. The Medical Board issued disability certificate (Ex.C.1) stating that the appellant has suffered 20% permanent disability. The Tribunal has applied percentage method to assess the compensation. The Tribunal has not awarded any amount towards loss of earning capacity.

7. Considering the fact that the claimant suffered injury at the age of 22 years and he has taken treatment as inpatient at Rajiv Gandhi Government Hospital, Chennai, for a period of 90 days and the Medical Board assessed the disability as 20%, we are of the view that it is a fit case for applying multiplier



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method. Accordingly, considering educational quantification of the claimant, notional income is fixed at Rs.13,000/- per month. 40% is added towards future prospects. Total monthly income comes to Rs.18,200/-. By applying proper multiplier '18', Rs.7,86,240/- ($18200 \times 12 \times 18 \times 20 / 100$) is awarded towards loss of earning capacity. Hence, the amount of Rs.60,000/- awarded towards disability and Rs.20,000/- towards future prospects are set aside. The amount of Rs.30,000/- awarded towards pain and suffering is enhanced to Rs.1,00,000/-; Rs.5,000/- towards transportation is enhanced to Rs.50,000/-; Rs.20,000/- towards extra nourishment is enhanced to Rs.50,000/-; Rs.22,000/- towards attender charges is enhanced to Rs.1,00,000/-; Rs.20,000/- towards loss of studies is enhanced to Rs.50,000/-. Rs.1,00,000/- is awarded towards loss of amenities. The amount awarded towards hospital expenses and the rate of interest fixed by the Tribunal as 7.5% per annum are confirmed.



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8. Accordingly, the compensation awarded by the Tribunal to the claimant is re-quantified as follows:-

Heads	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Disability	60,000/-	Nil	set aside
Pain and Sufferings	30,000/-	1,00,000/-	enhanced
Transportation	5,000/-	50,000/-	enhanced
Hospital Expenses	18,750/-	18,750/-	confirmed
Extra Nourishment	20,000/-	50,000/-	enhanced
Attender Charges	22,000/-	1,00,000/-	enhanced
Loss of Studies	20,000/-	50,000/-	enhanced
Loss of Future Prospects	20,000/-	Nil	set aside
Loss of earning capacity	Nil	7,86,240/-	granted
Loss of Amenities	Nil	1,00,000/-	granted
Total	1,95,750/-	12,54,990/-	enhanced
Rounded off		12,55,000/-	

9. In fine, this Civil Miscellaneous Appeal is partly allowed. The award amount of Rs.1,95,750/- is enhanced to Rs.12,55,000/-. The Insurance Company is directed to deposit the modified award amount of Rs.12,55,000/- with accrued interest and costs, less the amount already deposited, if any, within a period of



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eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the modified amount along with interest and costs, less the amount if already withdrawn. There is no order as to costs in this appeal.

[M.K.K.S.,J.] [V.S.G.,J.]
27.04.2022

skn

Intex : Yes/No

Internet : Yes/No

To

1.TheMotor Accident Claims Tribunal,
II Special Judge,
Small Causes Court, Chennai.

2.The Section Officer,
V.R.Section,
Madras High Court,
Chennai.



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and
V.SIVAGNANAM, J.

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JUDGMENT MADE IN
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