



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.M.A.NO.4355 OF 2019

AND

C.M.P.NO.12734 OF 2019

K.S.Venkataraman

...Appellant / Petitioner

Vs.

1.R.Eswara Rao

2.National Insurance Co.Ltd.,
No.25, Mahatma Complex,
Whites Road, Royapettah,
Chennai-600 014.

...Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 21.08.2018 made in M.C.O.P.No.5977 of 2014 on the file of the Motor Accident Claims Tribunal (Small Causes Court, Special Sub-Court No.2), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : Mr.D.Bhaskaran [R2]

JUDGMENT

The claimant has preferred the above appeal seeking enhancement of the award passed by the Motor Accident Claims Tribunal (Small Causes Court, Special Sub-Court No.2), Chennai.

2. The claimant is aggrieved by the fact that the Tribunal has reduced the disability assessed from 20% and fixed the disability at 5%. The claimant is also aggrieved by the fact that only a sum of Rs.3,000/- has been taken that the Tribunal ought to have taken Rs.5,000/- as notional income.

3. The learned counsel for the 2nd respondent/Insurance Company would submit that the award of the Tribunal below is fair and in keeping with the orders of both the Hon'ble Apex Court as well as this Court.



4. Heard the learned counsel on either side and perused the records.

5. The claimant is aged 52 years and was working as an Operator in Brakes India Ltd., Padi, Chennai. His monthly income is Rs.17,000/- which is evidenced by Ex.P4. The claimant has suffered a fracture of the head of 5th metatarsal right foot. The Doctor has assessed his disability at 20% as partial and permanent disability. The Tribunal has computed the disability only at 5%. The records would show that the appellant/claimant is working as an Operator, the disability he has sustained especially the fracture of the head of 5th metatarsal right foot which would have caused a considerable discomfort and he has been assessed as partial and permanent disability by the Doctor. However, taking into account the fact that the appellant as PW1 has stated that he has resumed his work, the disability can be assessed at 10%. Considering the year of the accident, the income can be taken as Rs.4,000/- instead of Rs.3,000/-. Therefore, under the head of loss of disability would be Rs.4,000/- X 10 = Rs.40,000/-. The appellant would have not attended his work for two months and therefore, as per Ex.P4, loss of income can be calculated as Rs.10,000/- X 2 = Rs.20,000/-. The transportation charges also to be increased from Rs.2,000/- to Rs.5,000/-. On all other heads, the award of the Tribunal appears to be fair. Therefore, Compensation awarded by the Tribunal is reworked as below:

S. No.	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Disability	15,000/-	40,000/-	Enhanced
2	Pain & Suffering	10,000/-	10,000/-	Confirmed
3	Loss of Income	5,000/-	20,000/-	Enhanced
4	Transport to Hospital	2,000/-	5,000/-	Enhanced
5	Extra Nourishment	5,000/-	5,000/-	Confirmed
6	Attendant Charges	5,000/-	5,000/-	Confirmed
	TOTAL	42,000/-	85,000/-	Enhanced

6. In the result, this Civil Miscellaneous Appeal is allowed and the compensation of Rs.42,000/- awarded by the Tribunal is hereby Enhanced to a sum of Rs.85,000/- together with interest @ 7.5 % per annum from the date of petition till the date of deposit. The 2nd respondent/Insurance Company is directed to



deposit the enhanced amount of Rs.85,000/- to the credit of M.C.O.P.No.5977 of 2014 on the file of the Motor Accident Claims Tribunal (Small Causes Court, Special Sub-Court No.2), 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 claimant is permitted to withdraw the amount now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn. No costs. 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. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

ssn

To

1.The Motor Accident Claims Tribunal,
Small Causes Court, Special Sub-Court No.2,
Chennai.

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

+1cc to M/s.D.Bhaskaran, Advocate Sr.No.19344

+1cc to M/s.K.Varadha Kamaraj, Advocate Sr.No.19111

C.M.A.No.4355 of 2019
and
C.M.P.No.12734 of 2019

SSN(CO)
RVM(16/05/2022)