



C.M.A.No.2873 of 2014

WEB COPY IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 17.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2873 of 2014

D.Kannan

... Appellant/Petitioner

Vs.

1.K.Ramesh

2.ICICI Lombard Gen. Ins. Co. Ltd.
Chhottabhai Centre
140, Nungambakkam High Road
Chennai -34

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Judgment and Decree dated 24.06.2014 in M.C.O.P.No.4387 of 2007 on the file of the learned Special Subordinate Judge – I, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai.



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For Appellant : Mr.T.G.Balachandran

For Respondent : Ms.Sree Vidhya for R2
No appearance for R1

JUDGMENT

The claimant is the appellant before this Court seeking an enhancement of the Award in M.C.O.P.No.4387 of 2007 on the file of the learned Special Subordinate Judge – I, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai.

2.The appellant had sustained injuries in a road accident on 02.07.2007 at about 09.30 hours. He had claimed a sum of Rs.10 lakhs as compensation for the injuries sustained by him. The accident had occurred when the petitioner was standing besides the lorry, bearing Registration No.MP 18H 4211 as a Cleaner and overseeing the loading of the Sand from the Polacheri lake. At the time, another tipper lorry, bearing Registration No.TN22 AZ 6006 which was



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reversed in a rash and negligent manner by its driver hit the petitioner.

As a result of which, he has sustained the following injuries:

“(1)Plunt injury to abdomen

(2)Splenic injury resulting in splenectomy

(3)Left side haemothorax fracture of ribs 6 ,7&

10.

(4)multiple injuries.”

The Tribunal has awarded only a sum of Rs.1,40,000/- as compensation to the petitioner. Aggrieved over the same, the appellant has filed the above appeal.

3.It is the contention of the learned counsel for the appellant that the appellant has sustained the above injuries and he was an inpatient at Chettinad Hospital, Chennai, for 17 days between 02.07.2007 and 19.07.2007 and thereafter, at Kamal Hospital, Chennai for 8 days from 10.06.2012 to 14.06.2012. He would further submit that the



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appellant is a loadman and he would have earned a minimum of Rs.250/- per day and the monthly income would be a sum of Rs.7,500/-, however, these facts have been totally overlooked by the Tribunal. That apart, the Tribunal has not taken into account the prolonged hospitalization, pain and suffering to the claimant, loss of earning power, etc.,

4.The learned counsel appearing for the Insurance Company would submit that the accident is of the year 2007 and the details of the hospitalization, particularly, the second hospitalization, is not strictly attributable to the injuries sustained by him in a road accident since the hospitalization is nearly five years after the accident pending the claim petition. She would submit that the award appears to be reasonable.

5.Heard the learned counsels appearing on either side and perused the papers.



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6.Considering the injuries sustained by the appellant there is an every likelihood of him not having attended work for atleast a minimum six months. The monthly salary can be fixed at a sum of Rs.6,000/- and therefore, the loss of earning for a period of six months would be a sum of Rs.36,000/-. Further, considering the hospitalization, extra nourishment can be enhanced to a sum of Rs.10,000/-. The cost of purchase of medicines has to be reduced to a sum of Rs.22,500/- as the Medical bills have been produced only to that extent. A sum of Rs.1,000/- for the damages to material is granted though not originally granted. The compensation for permanent disability can be fixed at Rs.2,60,000/- and for future medical expenses, a sum of Rs.20,000/- is granted. Therefore, taking into consideration the above aspects, the modified amount is 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.	Loss of earning	Rs.13,500/-	Rs.36,000/-	Enhanced
2.	Transportation	Rs.6,500/-	Rs.6,500/-	Confirmed
3.	Extra nourishment	Rs.6,500/-	Rs.10,000/-	Enhanced
4.	Pain and sufferings	Rs.25,000/-	Rs.25,000/-	Confirmed
5.	Permanent disability	Rs.60,000/-	Rs.2,60,000/-	Enhanced
6.	Medical expenses	Rs.25,000/-	-	Deleted
7.	Cost of purchase of medicine	-	Rs.22,500/-	Granted
8.	damages to materials	-	Rs.1,000/-	Granted
9.	Future medical expenses	-	Rs.20,000/-	Granted
		Rs.1,40,000/-	Rs.3,81,000/-	

7. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent/Insurance Company is directed to deposit the entire amount, less the amount already deposited, with



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proportionate accrued interest and costs, to the credit of M.C.O.P.No.4387 of 2007 on the file of the learned Special Subordinate Judge – I, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of a copy of this order, if not deposited earlier. On such deposit, the appellant is permitted to withdraw the entire award amount with proportionate accrued interest and costs, by making necessary applications.

The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs.

17.11.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps



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To

The Special Subordinate Judge – I,
Motor Accidents Claims Tribunal,
Court of Small Causes,
Chennai.



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P.T. ASHA, J,

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