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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Miscellaneous Appeal No.2753 of 2021

K. Bharath ... Appellant/Claimant

Vs.

1. R.Narayanan

2. Reliance General Insurance Company Limited,
Reliance House, R.O. Legal Dept.,
No.6, 6th Floor, Haddows Road,
Chennai 600 006.

... Respondents/Respondents

Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, to enhance the amount awarded in MCOP No.1934 of 2017 dated 29.09.2020 on the file of Motor Accident Claims Tribunal (V Small Causes Court), Chennai.

For Appellant : Mr. K.Varadhakamaraj

For Respondents : Mr. R.Sunil Kumar for R2

No appearance for R1

J U D G M E N T

The claimant who was favoured with an award of Rs.2,96,700/- for the injuries suffered by him in a motor accident that occurred on 28.02.2017 seeks enhancement.

2. The factum of accident and the fact that the claimant suffered injuries is not in dispute. The negligence on the part of the driver of the Van bearing Registration No.TN-22-BL-4304 is not in controversy, inasmuch as the Insurance Company has not filed an Appeal against the award.



3. On the quantum, Mr.Varadhakamaraj, learned counsel appearing for the appellant would submit that the Tribunal was not right in awarding only Rs.3,000/- per percentage of disability for the accident that occurred on 28.02.2017, according to him, the Tribunal must have awarded Rs.5,000/- per percentage of disability. He would also contend that the award of Rs.30,000/- towards loss of amenities is very low.

4. Contending contra Mr.R.Sunil Kumar, learned counsel appearing for the Insurance Company would submit that though the claimant has stated that he has earning only Rs.10,000/- per month the Tribunal has taken his income as Rs.15,000/- and awarded Rs.45,000/- towards loss of income and that would offset the deficit in the other heads.

5. I have considered the submissions of the counsel for the parties.

6. As rightly contended by Mr.Varadhakamaraj, the Tribunal was not right in granting Rs.3,000/- only per percentage of disability for an accident that occurred in 2017. This Court had held that it should be at Rs.5,000/- per percentage of disability. Therefore, the award under the head of disability should be straight away enhanced to Rs.50,000/- instead of Rs.30,000/- . The amounts awarded under the other heads are reasonable.

7. Though the counsel for the appellant would contend that the award under the head of loss of amenities of Rs.30,000/- is low, as rightly pointed out by Mr.R.Sunilkumar, learned counsel appearing for the Insurance Company, a sum of Rs.45,000/- has been awarded for loss of income for three months, where the claimant in his petition itself has stated he is only earning Rs.10,000/- per month, so that the excess of Rs.15,000/- under the head could be offset towards the loss of amenities. I therefore do not see any reason to modify the award on the other heads.

8. In fine, the Appeal is partly allowed, the award under the head of disability alone is enhanced Rs.50,000/- from Rs.30,000/- and the total award is enhanced to Rs.3,16,700/-. The Insurance Company is directed to deposit the award amount as per the modified award, less the amount, if any, already deposited, with appropriate interest as granted by the Tribunal



to the credit of MCOP No.1934 of 2017, within a period of six (6) weeks from the date of receipt of a copy of the judgment. On such deposit, the claimant is permitted to withdraw the same. There shall be no order as to costs.

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SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

jv
To

The V Judge,
Motor Vehicle Accident Claims Tribunal,
Small Causes Court, Chennai.

Copy to

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

+1cc to Mr.R.Sunil Kumar, Advocate Sr.1757
+1cc to Mr.K.Varadha kamaraj, Advocate Sr.1707

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srg 14/02/2022