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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

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

C.M.A. No.2120 of 2017

R.Thyagarajan ... Appellant/Claimant
Vs.

1. M.Elangovan

2. United India Insurance Company Ltd.,
Motor Third Party Claims HUB,
Silinghi Buildings,
No.134, Greams Road,
Chennai 600 006.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, against the judgment and decree dated 21.02.2017 made in MACT.OP.No.1334 of 2014 on the file of II Court Motor Accidents Claims Tribunal/ II Court of Small Causes, Chennai.

For appellant : M/s.Saleem Fathima
for Mr.M.Swamikannu

For respondents
for R1 : Mr.P.Kanthan

for R2 : Mr.C.Paranthaman

J U D G M E N T

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

This appeal is filed by the claimant in MCOP.No.1334 of 2014 on the file of the Motor Accidents Claims Tribunal, seeking enhancement of compensation.

2. The appellant met with an accident on 08.02.2014 at 16.00 hours, when he was riding a motorcycle bearing Registration No.TN-05-C-3675 on MRH Road at Madhavaram, Chennai. The Tribunal on appreciation of evidence produced by the parties has held that the driver of the Car bearing Registration No.TN-



20-Y-2728 was responsible for the accident and awarded a compensation of Rs.12,10,000/- together with interest. Being not satisfied with the award, he has come up with this appeal.

3. Heard Ms.Saleem Fathima, learned counsel for the petitioner, Mr.P.Kanthan, learned counsel for the first respondent and Mr.C.Paranthaman, learned counsel for the second respondent and perused the materials available on record.

4.The claimant at the relevant point of time was aged about 45 years and he was working as a Trade Mechanist. According to him, he was earning Rs.25,000/- to 30,000/- per month. The disability of the appellant was assessed as 35% and the disability certificate was marked as Ex.P14 and X-ray was marked as Ex.P15. The age of the appellant was proved through the driving licence Ex.P8. The Tribunal on the basis of the certificates Ex.P7, Ex.P11 to 13 fixed notional income as Rs.20,000/- and applying proper multiplier 14 assessed the Loss of Future Earning Capacity.

5. The grievance of the appellant before this Court is that when the Doctor assessed disability as 35%, it is not proper on the part of the Tribunal to take his disability as 25%. It is the submission of the learned counsel appearing for the appellant that in view of the injuries sustained in the Spinal Cord, the appellant lost his avocation and he is not able to go for any work.

6. Considering the submissions of the learned counsel appearing for the appellant and after perusing the materials available on record, we are of the opinion that it would be proper to take disability as 35%. Hence, the Loss of Future Earning Capacity is re-assessed as Rs.11,76,000/- [20,000 x 12 x 14 x 35%]. After applying multiplier method to assess the Loss of Earning Capacity, the Tribunal has also awarded Rs.1,05,000/- under the head Disability, hence, the same is set aside.

7. The Tribunal has awarded Rs.19,000/- towards attender charges; Rs.50,000/- towards Loss of Amenities; and Rs.75,000/- towards Pain and Sufferings; Considering the nature of injuries and the period of treatment, we are of the opinion that the amount awarded under those heads needs to be enhanced. Hence, this Court awards, Rs.45,000/- towards attender charges; Rs.1,00,000/- towards Pain and Sufferings; and Rs.1,00,000/- towards Loss of amenities. In addition to that the amounts awarded by the Tribunal under other heads are confirmed. In total, the claimant is entitled to Rs.15,42,200/- along with



interest at the rate of 7.5% per annum from the date of claim petition till the date of realization. Thus, the total compensation payable to the claimants is re-calculated and tabulated below:

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S. No.	Heads under which amounts are awarded by the Tribunal	Amount awarded by the Tribunal in Rs.	Amount awarded by this Court in Rs.
1.	Transportation, Nourish Food and Miscellaneous Expenditure	60,000	60,000
2.	Medical Expenses	11,200	11,200
3.	Future Medical Expenses	10,000	10,000
4.	Attender Charges	19,000	45,000
5.	Disability	1,05,000	-
6.	Loss of Future Earning Capacity	8,40,000	11,76,000
7.	Loss of Earning during the period of treatment	40,000	40,000
8.	For Pain and Sufferings	75,000	1,00,000
9.	Loss of Amenities	50,000	1,00,000
	Total	12,10,200	15,42,200

8. In view of the above modifications, the Civil Miscellaneous Appeal is partly allowed. The second respondent/Insurance Company is directed to deposit the above modified award amount with accrued interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, together with interest and costs. The claimant shall pay necessary Court fee, if any on the enhanced compensation. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pvs



To

1.The Motor Accident Claims Tribunal,
The II Judge,
Court of Small Causes,
Chennai.

Copy To

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

+1cc to Mr.S.Elango, Advocate SR.No.21562
+2cc to Mr.P.Kanthan, Advocate SR.No.21243
+1cc to Mr.C.Paranthaman, Advocate SR.No.21238

C.M.A. No.2120 of 2017

JPL(CO)
GN(31/05/2022)