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C.M.A.No.1797 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1797 of 2021

J.Naresh Kumar

... Appellant / Petitioner

Vs.

1. R.George

2. Reliance General Insurance Company Limited,
Legal Department, Reliance House,
6th Floor, No.6, Haddows Road,
Nungambakkam,
Chennai - 600 006.

... Respondents / Respondents

(Since R1 remained ex-parte before the Tribunal,
his presence may be dispensed with)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 29.01.2020 made in M.C.O.P.No.2434 of 2015 on the file of the Motor Accidents Claims Tribunal-III, Court of Small Causes, Chennai.

For Appellant : Mr.A.Subadra

For Respondents : R1 - Ex-parte
Mrs.C.Bhuvanasundari for R2

J U D G M E N T



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This appeal has been filed by the appellant / claimant to enhance the award in M.C.O.P.No.2434 of 2015 on the file of the Motor Accidents Claims Tribunal-III, Court of Small Causes, Chennai wherein the Tribunal has awarded a sum of Rs.1,19,000/- as compensation.

2. On 27.02.2015, when the claimant was travelling as a passenger in an Auto Rickshaw bearing Registration No.TN-23-AR-5530 belonging to the first respondent and insured with the second respondent, the auto driver driven the auto in a rash and negligent manner and caused the accident in which the claimant suffered grievous injuries. Since the claimant was not able to do the regular work after suffering the injuries, he claimed a sum of Rs.6,00,000/- as compensation under various heads.

3. Before the Tribunal, the claimant examined himself as P.W.1 and marked Exs.P1 to P4. On the side of the respondents, one witness was examined as R.W.1 and three documents were marked as Exs.R1 to R3 and the disability certificate was marked as Ex.C.1. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.1,19,000/- under various heads. Not satisfied with the same, the present appeal has been filed



by the claimant seeking enhancement.

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4. The first respondent remained ex-parte before the Tribunal.

5. The learned counsel appearing for the appellant submitted that the Tribunal has failed to consider the age, income and occupation of the injured. At the time of accident, the injured was aged about 28 years and was working as a Lorry Driver and earned about 18,000/- per month as income. However, the Tribunal fixed as Rs.9,000/- per month as notional income. He further submitted that, when the Tribunal has accepted that the Auto Rickshaw was driven in a rash and negligent manner, was the cause for the accident, the compensation awarded by the Tribunal is grossly inadequate. Further, the learned counsel has submitted that when the doctor had clearly deposed about the injuries and disability suffered by the claimant, the amount of Rs.3,000/- per percentage of disability awarded by the Tribunal is wholly inadequate. Further, the amount awarded under the head 'pain and suffering' is also minimal, which requires enhancement.

6. Per contra, learned counsel appearing for the second respondent /



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Insurance Company submitted that the amount of Rs.3,000/- awarded per percentage of disability is reasonable. However, Rs.10,000/- awarded towards loss of amenities for a minor injury is not reasonable and hence, the same may be deleted. Further, the compensation awarded under the other heads are just, which does not require any enhancement.

7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

8. The factum of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded.

9. Considering the age, avocation and the nature of injuries sustained by the appellant, this Court finds that the compensation awarded under the heads transport and extra nourishment, loss of income, attender charges, medical expenses and damages to clothes are just and reasonable and does not require any interference. However, insofar as the compensation awarded



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towards pain and suffering is concerned, this Court feels that a sum of Rs.20,000/- is meagre and the same is enhanced to Rs.50,000/-.

10. Further, it is seen from the records that as per Ex.C.1, the claimant has suffered 10% partial permanent disability and the Tribunal has rightly taken the disability at 10%. However, Rs.3,000/- awarded per percentage is on the lower side and the same is enhanced to Rs.4,000/-. Thus, the compensation of Rs.30,000/- (10 X 3,000/-) awarded towards disability is enhanced to Rs.40,000/- (10 X 4,000/-). Further, it is seen that the Tribunal has awarded Rs.10,000/- towards loss of amenities. On perusal of the records, it is found that, the claimant has suffered only 10% partial permanent disability as per Ex.C.1 - disability certificate and Rs.40,000/- has been awarded under the said head. Hence, Rs.10,000/- awarded towards loss of amenities is not warranted and the same is deleted.

11. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads are modified as under :-



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S.No	Head of Compensation	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Pain and Sufferings	Rs.20,000/-	Rs.50,000
2.	Transport and Extra Nourishment Expenses	Rs.20,000/-	Rs.20,000/-
3.	Disability (10% x 4,000)	Rs.30,000/-	Rs.40,000/-
4.	Loss of Income	Rs.27,000/-	Rs.27,000/-
5.	Attender Charges	Rs.6,000/-	Rs.6,000/-
6.	Medical Expenses	Rs.5,000/-	Rs.5,000/-
7.	Towards Disability / Loss of Amenities	Rs.10,000/-	-
8	Damages to Clothes	Rs.1,000/-	Rs.1,000/-
	Total	Rs.1,19,000/-	Rs.1,49,000/-

12. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.1,19,000/- is hereby enhanced to Rs.1,49,000/- together with interest @ 7.5% per annum from the date of filing of Claim Petition till the date of deposit. The second respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the



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amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2434 of 2015 on the file of the Motor Accidents Claims Tribunal-III, Court of Small Causes, Chennai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making proper application before the Tribunal. No costs.

22.12.2023

Index :Yes / No

Speaking Order :Yes / No

Neutral Citation Case: Yes / No

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To

1. The Motor Accidents Claims Tribunal-III,
Court of Small Causes,
Chennai.
2. The Section Officer,
V.R. Section,
High Court,
Chennai.



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M.DHANDAPANI, J.

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