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C.M.A.No.1896 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1896 of 2019

D.Bakthavatchala Babu

.. Appellant

Vs.

1.D.Arumugam

2.Bajaj Allianz General Insurance

Company Ltd.,

No.497/498, 5th Floor,

Isana Kattima Building,

Poonamalle High Road,

Arumbakkam, Chennai - 600 106.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 21.12.2018 made in M.C.O.P. No.2561 of 2013 on the file of the Special Sub Court No.1, Motor Accidents Claims Tribunal, Small Causes Court, Chennai.

For Appellant : Mr.G.C.Santhanakrishna

For Respondents : Mr.T.K.Prem Kumar for R2
R1-Exparte

JUDGMENT



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This appeal has been filed by the claimant seeking enhancement of compensation.

2.The Tribunal, under the impugned award, has directed the second respondent/Insurance Company to pay the appellant/claimant a compensation of Rs.36,000/- for the injury sustained by him as a result of an accident caused by a vehicle, insured with the second respondent as detailed hereunder:

S.Nos.	Head	Amount awarded by the Tribunal
1.	Pain and suffering	Rs.15,000.00
2.	Transportation	Rs. 3,000.00
3.	Extra Nourishment	Rs.10,000.00
4.	Attender charges	Rs. 1,000.00
5.	Loss of earnings	Rs. 7,000.00
	Total	Rs.36,000.00

3.With regard to the negligence of the driver of the vehicle, insured with the second respondent, the findings rendered by the Tribunal has attained finality as no appeal has been filed by the Insurance Company aggrieved by the impugned award.

4.The only question that arises for consideration in this appeal is



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whether the appellant/claimant is entitled for enhancement of compensation or not.

5. Admittedly, the appellant/claimant was hospitalised for a period of four days on account of the injuries sustained by him as a result of the accident caused by the vehicle insured with the second respondent. The appellant/claimant is an Advocate by profession. In the Claim Petition, he had pleaded that for a period of four months, he was not able to do his professional work as a result of the injuries sustained by him due to the accident caused by the vehicle, insured with the second respondent. The Tribunal has fixed his notional monthly income at Rs.7,000/- and has awarded a compensation of Rs.7,000/- towards loss of income calculated for a period of one month.

6. This Court is of the considered view that considering the nature of injuries sustained by the appellant/claimant and the period of his hospitalisation, the Tribunal ought to have fixed the compensation towards loss of income for a period of two months instead of one month erroneously fixed by the Tribunal. The accident happened in the year 2013. The fixation of the notional monthly income of the appellant/



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claimant at Rs.7,000/- by the Tribunal is a correct assessment. Since this Court has determined that the second respondent/Insurance Company is liable to pay compensation towards loss of income to the appellant/claimant for a period of two months, the compensation awarded by the Tribunal towards loss of income is enhanced from Rs.7,000/- to Rs.14,000/-. Similarly, the compensation awarded by the Tribunal under the other heads, i.e. Pain and suffering, Transportation, Extra Nourishment and Attender charges is also low and they have to be enhanced in the following manner:

S.Nos.	Head	Amount awarded by this Court
1.	Pain and suffering	Rs.21,000.00
2.	Transportation	Rs. 6,000.00
3.	Extra Nourishment	Rs.20,000.00
4.	Attender charges	Rs. 5,000.00
5.	Loss of earnings	Rs.14,000.00
	Total	Rs.66,000.00

7.Since this appeal was earlier dismissed for non-prosecution and was restored subsequently pursuant to the orders passed by this Court, the appellant/claimant is not entitled for any interest for the period from the date when the appeal was dismissed for non-prosecution and till the



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date when the appeal was restored to file.

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8. Accordingly, this Civil Miscellaneous Appeal is partly allowed by enhancing the award amount. The second respondent/insurance company is directed to deposit the enhanced award amount of Rs.66,000/-, after deducting the amount already deposited, if any, together with interest at the rate of 7.5% per annum to the credit of M.C.O.P. No.2561 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai, within a period of four weeks from the date of receipt of a copy of this judgment.

9. The appellant/claimant is permitted to withdraw the said amount, once it is deposited by the second respondent/Insurance Company, by filing an appropriate application. On such application being made, the Tribunal shall transfer the amount lying to the credit of M.C.O.P. No.2561 of 2013 to the bank account of the appellant/claimant directly through RTGS, within a period of one week thereafter. No costs.

24.06.2024

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ABDUL QUDDHOSE, J.

vga

To

- 1.The Motor Accidents Claims Tribunal,
Special Sub Court No.1,
Small Causes Court, Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.

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