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C.M.A.No.4147 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.4147 of 2019

Sekar

... Appellant

Vs.

1.J.C.Roy

2. Reliance General Insurance Company Limited,  
Plot No.6, 6th Floor,  
Haddow Road,  
Nungambakkam,  
Chennai - 34.

... Respondents

**PRAYER:** Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 13.12.2018 made in M.C.O.P. No.660 of 2017 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Ms.Malar M

For Respondents : Mr.P.Suresh Srinivasan  
for R2

R1 - Given Up

**JUDGMENT**

**WEB COPY** This appeal has been filed by the claimant seeking enhancement of compensation awarded by the Tribunal. The Tribunal under the impugned award directed the second respondent Insurance Company to pay the appellant / claimant a compensation of Rs.1,50,000/- as detailed hereunder:

| <i><b>Heads</b></i> | <i><b>Amount awarded by<br/>the Tribunal in Rs.</b></i> |
|---------------------|---------------------------------------------------------|
| Disability          | 60,000                                                  |
| Medical expenses    | 10,000                                                  |
| Pain and sufferings | 50,000                                                  |
| Extra nourishment   | 10,000                                                  |
| Transport charges   | 5,000                                                   |
| Attender charges    | 15,000                                                  |
| <b>Total</b>        | <b>1,50,000</b>                                         |

2. The appellant / claimant had sustained injuries like closed trimallerlar ankle joint fracture right side, head injury, left perineptic hematoma, tenderness over left hyperchondrium, sutured wound over the occipital region, deformity over the right lower limb and multiple grievous injuries all over the body as a result of an accident caused by a vehicle insured with the second respondent Insurance Company. The nature of injuries sustained by the appellant / claimant has not been disputed by the



respondents as seen from the evidence available on record.

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3. The appellant / claimant was hospitalized for a period of 5 days which is also not disputed by the respondents. The private Doctor, who has been examined as PW2, has assessed the disability of the appellant / claimant at 35%, but, the Tribunal, after giving due consideration to the nature of injuries sustained by the appellant / claimant and also the period of his hospitalization, had reduced the disability to 20%. This Court does not find any infirmity in the said assessment made by the Tribunal.

4. However, the Tribunal while awarding the disability compensation has awarded the same at Rs.3,000/- per percentage of disability, though for an accident of the year 2017, it is settled practice to award disability compensation at Rs.7,000/- per percentage of disability. Accordingly, this Court enhances the disability compensation from Rs.60,000/- fixed by the Tribunal to Rs.1,40,000/- calculated at Rs.7,000/- per percentage of disability for the 20% disability suffered by the appellant / claimant.



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5. The Tribunal has awarded compensation of Rs.10,000/- towards medical expenses, Rs.50,000/- towards pain and sufferings, Rs.10,000/- towards extra nourishment, Rs.5,000/- towards transportation and Rs.15,000/- towards attender charges, which in the considered view of this Court is a just compensation and there is no scope for enhancement.

6. The Tribunal has failed to award any compensation towards loss of income, which the appellant / claimant is legally entitled to. Having sustained injuries as stated supra, and having been in hospital for a period of 5 days, this Court is of the considered view that for a period of one month, the appellant / claimant would have not been able to do his regular work as labourer (Coolie). Since the accident happened in the year 2017, this Court fixes the notional monthly income of the appellant / claimant at Rs.12,000/- and awards a compensation of Rs.12,000/- towards notional monthly income to the appellant / claimant.

7. For the foregoing reasons, the compensation payable by the second respondent Insurance Company is re-worked in the following manner:



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| <i><b>Heads</b></i> | <i><b>Amount awarded by the Tribunal in Rs.</b></i> | <i><b>Amount awarded by this Court in Rs.</b></i> |
|---------------------|-----------------------------------------------------|---------------------------------------------------|
| Disability          | 60,000                                              | 1,40,000                                          |
| Medical expenses    | 10,000                                              | 10,000                                            |
| Pain and sufferings | 50,000                                              | 50,000                                            |
| Extra nourishment   | 10,000                                              | 10,000                                            |
| Transport charges   | 5,000                                               | 5,000                                             |
| Attender charges    | 15,000                                              | 15,000                                            |
| Loss of income      | -                                                   | 12,000                                            |
| <b>Total</b>        | <b>1,50,000</b>                                     | <b>2,42,000</b>                                   |

8. In the result, this Civil Miscellaneous Appeal is **partly allowed** by enhancing the award amount from **Rs.1,50,000/-** to **Rs.2,42,000/-**. The second respondent/insurance company is directed to deposit the enhanced award amount of **Rs.2,42,000/-**, after deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from the date of the claim petition till the date of deposit and cost to the credit of **M.C.O.P. No.660 of 2017** on the file of the **Motor Accidents Claims Tribunal, II Court of Small Causes, 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



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**ABDUL QUDDHOSE. J.,**

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an appropriate application before the Tribunal. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.660 of 2017** to the bank account of the appellant directly through NEFT / RTGS, within a period of **one week** thereafter. No costs.

**09.07.2024**

Index : Yes/No  
Speaking Order : Yes / No  
Neutral Citation Case: Yes / No  
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To

1. The Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.
2. The Section officer, Record Section, High Court of Madras.

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