

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:7.4.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA.No.558 of 2015

Rajamanickam

... Appellant (Petitioner)

-Versus-

1. Shahul Hameed

2. United India Insurance Company Limited,  
Micro Office, Opp SBT, Thirurangadi Post,  
Chemmad, Malappapuram District, Kerala State.

(Notice to R1 may be dispensed with for the  
time being since he was set exparte before the  
Tribunal) ... Respondents (Respondents)

This civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the order made in M.C.O.P.No.304 of 2011 on the file of the Motor Accident Claims Tribunal-Cum Sub Court, Sankari dated 18.2.2014 and for enhancement of compensation.

For Appellant : M/s.C.Kulanthaivel

For Respondents : Mr.T.Ravichandran for R2

J U D G E M E N T

The appeal has been preferred by the claimant aggrieved over the quantum of Rs.44,000/- awarded as compensation for the injuries sustained by him in the accident occurred on 30.3.2011.

2. Heard Mr.C.Kulanthaivel. the learned counsel for the appellant and Mr.T.Ravichandran, learned counsel appearing for the second respondent. The claimant sustained fractures on left shoulder scapula bone and fracture on left side 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> ribs.

3. P.W.3 Doctor based on medical records determined the disability at 37%. However, the Tribunal came to the conclusion that there was only simple injuries and awarded a sum of Rs.44,000/-. A

perusal of the records especially Ex.P11, discharge summary dated 5.4.2011 would show that the claimant sustained grievous injury and he was hospitalized from 30.3.2011 to 5.4.2011. It is not always necessary that the disability certificate has to be produced by the Doctor and if other medical records are available, the Court on its own can determine the disability.

4. In the absence of particular type of certificate, the Tribunal cannot come to the conclusion that it is only a simple injury ignoring the other vital document like wound certificate. Therefore, as stated above it is very clear that the claimant sustained fracture as per PW3 Doctor's evidence. Hence this Court determines 37% disability and awards Rs.2500/- per each percentage of disability. It comes to Rs.2500/- X 37 = Rs.92,500/-. Rs.5000/- awarded towards pain and suffering is very low and the same is enhanced to Rs.10,000/-. Rs.24,080/- awarded as per Ex.P9 towards medical bills is confirmed. No amount was awarded towards transportation and extra nourishment and therefore, Rs.15,000/- and 10,000/- are awarded. The award of the Tribunal Rs.44,000/- is enhanced to Rs.1,51,500/- along with interest at 7.5% per annum.

5. The second respondent is directed to deposit the entire modified award amount along with interest and costs within four weeks from the date of the receipt of a copy of the order. On such deposit, the Tribunal is directed to pay the entire modified award amount to the claimant within one week thereafter. The appeal is partly allowed. No costs. Consequently the connected M.P.No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vk

To

The Motor Accident Claims Tribunal-Cum Sub Court, Sankari.

+1cc to Mr.T.RaviChandran, Advocate, S.R.No.19311

+1cc to Mr.C.Kulanthaivel, Advocate, S.R.No.19127

C.M.A.No.558 of 2015

CNR (CO)  
CA(22/05/2015)