

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2015

C O R A M

THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI

C.M.A.No.3508 of 2011

G.Nagarajan

...Appellant/Petitioner

Vs.

1. E.M.Sivagami
2. ICICI Lombard General Insurance Company Ltd.
Swarnambiga Plaza, Omalur Main Road,
New Bus Stand, Salem Town. ... Respondents/Respondents

PRAYER:

Civil Miscellaneous Appeal filed against the judgment and decree, dated 12.09.2011, passed in M.C.O.P.No.933 of 2008, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate) Dharmapuri.

For Appellant : Mr.C.Prabakaran
For 1st Respondent : Notice Served
For 2nd Respondent : Mrs.R.Sreevidhya

JUDGEMENT

Heard both sides.

2. The claimant/injured is the appellant herein, and this present Appeal is filed against the award of compensation of Rs.3,21,700/-, against the total claim of Rs.15,00,000/-.

3. The Tribunal, on the basis of the evidence adduced regarding the relevant material factors for the determination of compensation, awarded compensation under the following heads:-

i. Permanent Disability	:	Rs.1,40,000/-
ii.Extra Nourishment	:	Rs.6,000/-
iii.Medical Expenses	:	Rs.44,500/-
iv.Pain and Suffering	:	Rs.1,00,000/-
v. Transportation	:	Rs.13,200/-
vi.Loss of Income during treatment	:	Rs.18,000/-
Total	:	Rs.3,21,700/-

4. According to the appellant/claimant, the Tribunal, considering the nature of injuries and nature and extent of the disability, resulted from such injuries, as spoken by P.W.1/claimant, P.W.2/Doctor, and as borne out from Ex.P.5/wound certificate, Ex.P.7/medical bills, Ex.P.8/photos, Ex.P.9/X-ray and Ex.P.10/disability certificate issued by P.W.2, and the functional disability sustained by him, and, having regard to his avocation, and monthly income and his inability to move as before, and loss of earning capacity, ought to have awarded more amount under the heads 'Permanent Disability', 'Pain and Suffering', etc.,

5. The learned counsel appearing for the appellant has also, in support of his contentions drawn the attention of this Court to the oral and documentary evidence adduced before this Court, as referred to above, which would clearly demonstrate that the injured/claimant had amputation of his right leg below the knee, and he, being Welder and Agriculturist by occupation before the accident, sustained severe functional disability on the whole body, resulting in loss of earning capacity considerably, which in turn, led to loss of future income. Therefore, this Court, on the failure of the second respondent/Insurance Company to make out any ground to dispute the genuineness and correctness of the documents produced herein, is inclined to accept the functional disability as 70% and to determine the loss of future income by applying the multiplier method. The total compensation, thus, payable by this Court is determined as follows:-

i. Permanent Disability		
4,500 x 12 x 15 x 70/100	:	Rs.5,67,000/-
ii.Pain and Suffering	:	Rs.1,00,000/-
iii.Medical Expenses	:	Rs.44,500/-
iv.Transportation	:	Rs.15,000/-
v. Extra Nourishment	:	Rs.25,000/-
vi.Attender's charges	:	Rs.25,000/-
Total	:	Rs.7,76,500/-

6. The above said sum of Rs.7,76,500/- is payable with interest at 7.5% from the date of Petition till date of payment.

7. In the result, the compensation awarded by the Tribunal is enhanced from Rs.3,21,700/- to Rs.7,76,500/-, payable with interest

at 7.5% from the date of Petition till date of payment. Time for payment of balance award amount is four weeks from the date of receipt of a copy of this order. On deposit of the amount into Court, the claimant is permitted to withdraw the entire amount by filing necessary Cheque Petition before the Tribunal.

8. The Civil Miscellaneous Appeal is accordingly ordered. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

sd

To

The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal
Dharmapuri.

Copy to:

The Section Officer, VR Section, High Court, Madras

+1 cc to Mr.C.Prabakaran, Advocate, sr.41831

+1 cc to Mrs.R.Sreevidya, Advocate, sr.42192

C.M.A.No.3508 of 2011

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