

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.3588 of 2014

L.Venkatesan

... Appellant/Petitioner

Vs.

1.Perumal

2.Cholamandalam M.S.General

Insurance Company Limited,
No.1, 2nd Floor,
Rashini Towers,
Village Road,
Chennai - 600 034.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act 1988 against the judgment and decree dated 20.12.2013 made in M.A.C.T.O.P.No.119 of 2009 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant : Mr.V.Velu

JUDGMENT

The appeal has been preferred by the claimant against the award of Rs.2,90,000/- for the injury sustained by the appellant, a Head Constable, in the accident occurred on 17.06.2008.

2.Heard the learned counsel appearing for the appellant. He would submit that the appellant sustained fracture in the spinal card and therefore, he cannot get any promotion as a Sub Inspector and accordingly, the amount payable to the promoted post will also be affected. That apart, he would submit that only a sum of Rs.80,000/- was awarded towards disability, whereas, the disability was fixed at 40%.

3.However, a perusal of the record would show that the claimant has not lost his job. When his earning capacity is not affected, there is no question of payment by applying multiplier method. Secondly, the question of promotion would be taken care by the special Act viz., the persons with disability (Equal opportunities, Protection of rights and Full participation Act 1995) by which, the claimant will be given the suitable alternate post and

his income would not be reduced. Therefore, the said contention does not hold water. The only injury is L1 fracture. As per P.W.2 Doctor's evidence and other medical records, the claimant suffered the disability at 50%. However, the Tribunal unilaterally fixed the liability at 40% and awarded Rs.80,000/-. The said award is reasonable and cannot be stated to be very low. The amount awarded under the other heads are also very reasonable and hence, the same are confirmed. The rate of interest awarded by the Tribunal at 6% p.a remains unaltered. Since a sum of Rs.2,90,000/- awarded by the Tribunal is very reasonable, the compensation cannot be enhanced. Hence, the appeal fails and the same is dismissed. No costs.

4. The second respondent/Insurance Company is directed to deposit the entire amount along with interest and costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the appellant is permitted to withdraw the entire amount with accrued interest, within one week thereafter. However, the appellant is not entitled to the interest for the dismissal for default period from 03.09.2012 to 28.06.2013.

Sd/-
Assistant Registrar
Dated:

True Copy

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
V Court of Small Causes, Chennai.

2.The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to Mr.V.Velu, Counsel for Appellant, SR.4988.

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