

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA No.626 of 2014

Amanulla

.. Appellant / Petitioner

vs.

1.Suresh

(R1 remained exparte before the tribunal)

2.The Divisional Manager,
United India Insurance Co. Ltd.,
No.46, Katpadi Salai,
Vellore.

.. Respondents/Respondents

Prayer :- Civil Miscellaneous Appeal filed under Section 173 of M.V. Act 1988 against the judgment and decree dated 30.11.2010 and made in MACTOP No.729/2003 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Thiruvannamalai.

For Appellant : Mr.F.Terry Chellaraja

For Respondent : Mr.A. Dhiraviyanathan for R2

JUDGMENT

The appeal has been filed by the claimant against the award of Rs.1,48,400/- as compensation for the injuries sustained by the appellant / claimant in the accident occurred on 09.02.2003.

2. Heard Mr.Terry Chellaraja, learned counsel appearing for the appellant / claimant and Mr.A.Dhiraviyanathan, appearing for the 2nd respondent/insurance company.

3. It is seen from the records that the claimant sustained injuries leading to amputation of big toe in the left leg and therefore based on PW2, doctor's evidence and Ex.P7, disability certificate, the tribunal has rightly determined the disability at 20%. Applying multiplier 17 and taking Rs.3,000/- as the monthly

income, a sum of Rs.1,22,400/- was awarded as the claimant sustained loss of earning power because of the injuries. However, no amount has been awarded under the head disability. Therefore, a sum of Rs.40,000/- is awarded under this head for 20% disability. Similarly, no amount has been awarded towards loss of amenities and hence a sum of Rs.20,000/- is awarded under this head. Rs.2,000/- awarded by the tribunal towards extra nourishment and Rs.2,000/- awarded towards transportation appears to be low and the same is hereby enhanced to Rs.10,000/- each. Rs.2,000/- awarded under the head attender charges is hereby enhanced to Rs.5,000/-.

4. In total, Rs.1,48,400/- awarded by the tribunal is hereby enhanced to Rs.2,28,000/-, break-up as follows -

(1) Loss of earning capacity	...	Rs.1,22,400/-
(2) Disability	...	Rs. 40,000/-
(3) Extra nourishment	...	Rs. 10,000/-
(4) Transportation	...	Rs. 10,000/-
(5) Loss of amenities	...	Rs. 20,000/-
(6) Attender charges	...	Rs. 5,000/-
(7) Pain & Suffering, Mental Agony & Loss of expectation of life	...	Rs. 20,000/-
Total		Rs.2,27,400/-
		=====

Rounded off to Rs.2,28,000/-.

5. In the result, Civil Miscellaneous Appeal is partly allowed enhancing the compensation to Rs.2,28,000/- alongwith interest @ 7.5% per annum from the date of petition till the date of deposit. No costs. It is made clear that for the delay of 751 days in filing the appeal, the appellant/claimant is not entitled for any interest. The 2nd respondent/insurance company is directed to deposit the enhanced compensation amount alongwith interest and costs, as per the order of this Court, payable to the appellant/claimant, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the amount alongwith interest and costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rgr

To

The Motor Accident Claims Tribunal,
Principal Sub Judge,
Thiruvannamalai.

1 cc to Mr.A. Dhiraviyanathan, Advocate, Sr. 20254
1 cc to M/s. M. Malar, Advocate, Sr. 20306

CMA No.626 of 2014

VD (CO)
kk 21/5



WEB COPY