

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2015

CORAM:

THE HON'BLE Ms.JUSTICE K.B.K.VASUKI

C.M.A.No.1773 of 2009

Vijayakannan

.. Petitioner/(Petitioner)

Vs.

1. Mani
 2. Oriental Insurance Company Limited
Pondicherry
Having branch office at
No.179, Easwarankoil Street,
Pondicherry
 3. Senthilkumar
 4. United India Insurance Company Limited
Having Office at
Near Old Bus Stand, Sirkali
Nagapattinam District
- ...Respondents/(Respondents)

Prayer :

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act against Fair and Decreetal Order of Motor Accidents Claims Tribunal (Principal Sub Court), Mayiladuthurai dated 27.02.2009 made in MCOP No.227 of 2005

For Petitioner: Mr.S.Sounthar

For Respondents: Mr.G.Pugazhenthil for R1
Mr.M.J.Vijayaraghavan for R2
No appearance for R3 and R4

O R D E R

For the sake of convenience, the parties are ranked as stated before the Tribunal.

2.The claimant/injured is the appellant before this Court seeking enhancement of compensation of Rs.1,36,600/- awarded against the total claim of Rs.6,00,000/-. The Tribunal having found that the claimant met with an accident and sustained

grievous head injuries besides injuries on right ear, left fore arm etc., and was under treatment in the Government Hospital, Sirkali and Tanjavur for nearly 40 days between 13.03.2005 and 22.04.2005 and even after such treatment given to him, he was not fully recovered from the head injury and due to the injury caused to the brain he frequently gets loss of memory and he is unable to speak fluently and is suffering from speech impairment assessed the degree of disability sustained by him at 45% and awarded compensation of Rs.1,36,600/- under the following heads:-

Sl.No.	Heads	Amount
01	Medical Expenses	73,200
02	Permanent Disability	45,000
03	Attendant Charges	5,000
04	Extra Nourishment	2,000
05	Transport to Hospital	11,400
	TOTAL	1,36,600

3.The claimant has come forward with this Appeal for enhancement of the compensation under the heads above stated and for awarding reasonable compensation under the following heads :

Sl.No	Heads
01	Pain and Sufferings
02	Loss of income during treatment period
03	Loss of future earning
04	Loss of amenities and
05	Loss of Marriage Prospects

4.It is contended before this Court that having regard to the nature and extent of the disability and the impact of the same upon his day today activities and on his future carrier and personal life including family life, the compensation awarded is too low and inadequate and the omission to award any compensation under the other heads is contrary to law, unfair and unjustifiable.

5.It is contended by the learned counsel for the appellant that the petitioner was on the date of accident 22 years old and he was employed as Marketing Executive in one computer company for monthly salary of Rs.4,000/- per month and because of the injuries sustained by him in the accident, he lost his employment and lost his earning capacity resulting in loss of future earning, as such, the Tribunal ought to have awarded reasonable sum for loss of future earning. It is also argued that having regard the disability sustained by him at 45%, the loss of future earning ought to have been determined by adopting multiplier method. Whereas the learned standing counsel for the

Oriental Insurance Company would draw the attention of this Court to Nil particulars furnished in the claim petition regarding his age, the computer company in which he was employed, the factum of his non-employment, after the accident on account of his inability to do any job.

6.As rightly argued by the learned counsel for the respondent/Insurer, the petitioner/claimant has not furnished any particulars regarding his age, name and address of the employer in Column Nos.3 and 5 and regarding his non-employment in Column Nos.2 and 3 and on his failure to do so, the theory of his employment as Marketing Executive for monthly salary of Rs.4,000/- and his non-employment due to the disability sustained by him in the accident is entirely un-believable. That is why the Tribunal rightly awarded no compensation for his loss of income during treatment period and loss for future earning etc.,

7.The learned standing counsel for the Oriental Insurance Company-insurer of the offending vehicle would also defend the correctness of the quantum of the award of compensation by the tribunal.

8.This Court however considering the material factors relevant for determination of just and fair compensation is inclined to enhance the compensation already awarded and to award reasonable compensation under other headings as stated below. Thus, the compensation is enhanced as follows:-

Sl.No.	Heads	Amount
01	Medical Expenses	73,200
02	Permanent Disability	50,000
03	Attendant Charges	10,000
04	Extra Nourishment and transportation to hospital	25,000
05	Pain and Suffering	50,000
06	Loss of Amenities	50,000
07	Loss of marriage prospectus	1,00,000
	TOTAL	3,58,200
	Rounded off	3,60,000

9.In the result, the compensation of Rs.1,36,600/- is enhanced to Rs.3,60,000/-. The same is payable with interest at 7.5% per annum from the date of petition till the date of

payment and with proportionate cost. The time for payment of balance amount is six weeks from the date of receipt of copy of the Judgment and on such deposit of amount, the injured is permitted to withdraw the entire amount with interest and cost by filing separate cheque application. The Civil Miscellaneous appeal is accordingly allowed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssd

To

The Motor Accidents Claims Tribunal,
The Principal Sub Court,
Mayiladuthurai.

Copy to: The Section Officer,
VR Section, High Court,
Madras.

+ 1 cc to M/s. M.J. Vijayaraghavan, Advocate SR.46323
+ 1 cc to Mr.S. Sounthar, Advocate Sr.46491

C.M.A.No.1773 of 2009.

PPA(CO)
Eu 28.12.15

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