

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2015

C O R A M

THE HON'BLE MR.JUSTICE T.RAJA

C.M.A.NO.2031 OF 2010,

M.P.NO.1 OF 2010

AND

M.P.NO.1 OF 2013

The New India Assurance Co. Ltd.,
Divisional Office,
Premier Complex,
Yercaud Main Road, Salem - 4.

...Appellant /2nd Respondent

Vs

1. Ruthroth Sankar

...Respondent/Petitioner

2. A.S.Hameed

(R-2 remained ex parte

before the Lower Court)

... Respondents/1st Respondent

PRAYER:

Civil Miscellaneous Appeal filed U/S 173 of M.V.Act 1988, against the judgment and decree, dated 26.03.2010, passed in M.C.O.P.No.813 of 2005, on the file of the Motor Accident Claims Tribunal (II Additional Sub Court) Salem.

For Appellant : Mr.S.Manohar

For Respondent - 1 : Mr.A.V.Arun

For Respondent-2 : Remained ex parte

JUDGMENT

This Civil Miscellaneous Appeal is directed against the judgment and decree, dated 26.03.2010, passed in M.C.O.P.No.813 of 2005, on the file of the Motor Accident Claims Tribunal (II Additional Sub Court) Salem

2.Heard both sides.

3.The second respondent/New India Assurance Company Limited

before the Tribunal, is the appellant herein.

4. The grievance raised in this Appeal, filed against the award of compensation of Rs.2,65,500/- to the claimant/injured is that the amount awarded is too high.

5. The oral and documentary evidence adduced in support of the Claim Petition would reveal that the injured was, on the date of the accident, aged about 23 years, being a mechanic and doing milk vending business was self-employed, and he sustained grievous injuries in his left wrist and left leg, besides multiple injuries all over the body, and he was under treatment for 10 days i.e., from 24.05.2005 to 02.06.2005 and underwent surgery on 25.05.2005, and he has spent huge amount by way of medical expenses and there was comminuted tibia shaft fracture on left leg mid and the movements of left leg knee is restricted by 20%, resulting in difficulty to climb steps, walk fast or run, squat or to stand for more than ½ an hour and there is difficulty in doing normal work with left hand and difficulty in driving the vehicle. The Doctor, who was examined as P.W.2, on the basis of Ex.P.2/Wound Certificate and Ex.P.12/Disability Certificate, issued by him, assessed his disability at 40%.

6. The findings rendered by the Tribunal, as stated above, regarding the age, nature of avocation, nature of injuries sustained by the injured/claimant, period of his treatment, and the surgery underwent by him, and the pain and suffering, and the amount of mental agony suffered by him are all based on oral and documentary evidence. Having regard to the fracture sustained by the injured, and considering the aspect that he has completed Motor Mechanic Course and will be expected to earn not less than Rs.4,000/- per month, deducting 1/3rd towards his personal expenses, applying multiplier of 17, the Tribunal awarded compensation under various heads, as follows:-

i) Loss of Income	:Rs.2,04,000/-
ii) Transportation	:Rs. 5,000/-
iii) Extra Nourishment	Rs. 5,000/-
iv) Medical Expenses	:Rs. 41,500/-
v) Pain and Suffering	:Rs. 10,000/-
Total	:Rs.2,65,500/-

7. The claimant, being a motor mechanic, sustained 40% disability, hence, this Court finds no reason to hold that the compensation awarded by the Tribunal is either too high, or unjust, or unreasonable, thereby, calling for interference of this Court. As such, the impugned award stands confirmed.

8. In the result, the Civil Miscellaneous Appeal stands dismissed. If the Insurance Company has not so far deposited the entire amount, as per the order, dated 06.08.2010, passed by this Court in M.P.No.1 of 2010 of this Appeal, it is directed to deposit the entire amount, as awarded by this learned Tribunal with interest and costs within a period of four weeks from the date of receipt of the copy of this Judgment. Out of such deposit, the claimant is permitted to withdraw the entire amount by filing necessary Cheque Petition before the Tribunal. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal/
II Additional Sub Court) Salem.

+1cc to Mr.S.Manohar, Advocate, S.R.No.61857

C.M.A.No.2031 of 2010

ca(CO)
srg(01/02/2016)

सत्यमेव जयते

WEB COPY