

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.2811 of 2007

Kaithamalai Gounder

...Appellant/Petitioner

Vs.

1.V.Srinivasan

2.A.Narayanasamy

3.The New India Assurance Co. Ltd.,
No.42, Big Street, Vasavi Buildings,
II Floor, Thiruvannamalai.

... Respondents/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 13.12.2005 made in M.C.O.P.No.215 of 2005 on the file of Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Erode.

For Appellants : Mr.Prabakar
for Mr.N.Manokaran

For Respondents : Mr.K.Padmanabhan for R-3

JUDGMENT

This appeal has been preferred by the claimant, aggrieved over the quantum of Rs.80,000/- awarded in his favour as compensation, for the injuries sustained by him, in the accident, occurred on 23.09.2004.

2. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the 3rd respondent.

3. The only question to be decided in this appeal is whether the quantum of compensation awarded by the Tribunal is reasonable or not?

4. The claimant/appellant sustained fracture of bones in the right leg and hand, one grievous injury in the right knee as well as left and right elbows. Based on the evidence of P.W.2 Doctor and Ex.P12 disability certificate, the disability was determined at 30%. The Tribunal, taking the disability at 30%, awarded Rs.30,000/-. Rs.10,000/- was awarded towards pain and sufferings. Rs.25,000/- was

awarded towards medical expenses. Rs.5,000/- was awarded towards loss of income and Rs.10,000/- was awarded towards loss of earning capacity in all amounting to Rs.80,000/-. Taking into consideration the nature of injuries sustained by the claimant, 30% disability determined by the Tribunal is confirmed. However, Rs.30,000/- awarded towards disability is enhanced to Rs.60,000/-. Similarly, for medical expenses, instead of Rs.25,000/-, Rs.30,000/- is awarded. Rs.10,000/- awarded towards pain and sufferings is too low and the same is enhanced to Rs.20,000/-. The loss of income during treatment period is enhanced from Rs.5,000/- to Rs.10,000/-. Thus, the award amount of Rs.80,000/- awarded by the Tribunal is enhanced to Rs.1,30,000/-. The rate of interest at 7.5% p.a. awarded by the Tribunal and the costs remains unaltered.

5. The third 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, the appellant is permitted to withdraw the entire amount.

6. In the result, the civil miscellaneous appeal is partly allowed as indicated above. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rrg

To

The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate),
Erode.

+ 1 cc to M/s. N. Manokaran, Advocate SR.10459
+ 1 cc Government Pleader Sr.10566

Ug(CO)
EU 09.06.2015

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