



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

C.M.A.No.76 of 2009

M.Venkatesh ... Appellant/Claimant
-Vs.-

1. C.Dharmalingam

2. Iffco-Tokio General Insurance

Company Limited,

Tulsi Chambers, 3rd Floor,

196-T.V.Swamy Road (W),

R.S.Puram, Coimbatore-2.

... Respondents/Respondents

Civil Miscellaneous Appeal filed Under section 173 of Motor Vehicle Act, 1988, for enhancement of the compensation amount awarded in the judgment and decree dated 29.08.2008 made in M.C.O.P.No.14 of 2008 on the file of the Motor Accident Claims Tribunal/Principal Subordinate Court, Salem.

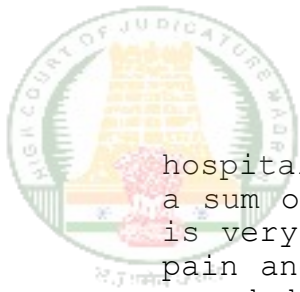
For Appellant ... Mr.N.Manokaran
For 2nd Respondent ... Mr.N.Vijayaraghavan
For 1st respondent ... No appearance
- - - - -

J U D G M E N T

The claimant is the appellant. He moved the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Salem in M.C.O.P.No.14 of 2008 claiming a compensation for a sum of Rs.3,00,000/- for the grievous injury sustained by him in a motor vehicles accident. The Tribunal awarded a sum of Rs.93,000/-, which is under challenge in this appeal seeking enhancement of the compensation.

2. At the outset, both sides did not dispute the accident and they restricted their arguments only with regard to the quantum awarded.

3. Learned counsel appearing for the appellant would submit that the appellant is a Power Loom Weaver by profession and due to the accident, he could not continue his profession since he suffered fracture in his right thigh and he has been



hospitalised for two months. But the Tribunal has awarded only a sum of Rs.30,000/- towards discomfort in the right thigh which is very low. Further, the learned Counsel would submit that for pain and sufferings and nutrition, only meagre amounts have been awarded by the Tribunal. Further, the learned counsel for the appellant would submit that the appellant has taken treatment even after being discharged from the hospital for several days, but for future medical expenses, no amount has been awarded. Though the claimant had claimed a sum of Rs.3,00,000/- as compensation, the Tribunal has awarded only a sum of Rs.93,000/-. Accordingly, he would pray for enhancement of the same.

4. Learned Counsel appearing for the 2nd respondent/Insurance Company would submit that the Court below after taking into consideration the entire medical records and also the documents produced on the side of the claimant, fixed the permanent disability at 20% and awarded a sum of Rs.30,000/-, warranting no interference in this appeal.

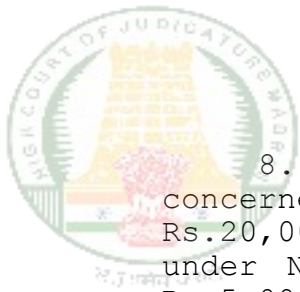
5. Heard both sides and perused the records.

6. On a careful perusal of the judgment passed by the Court below, it is seen that the court below had awarded a total compensation of Rs.93,000/- under the following heads:

1. Medical Bills	-	Rs.40,000/-
2. Discomfort taken into 20% in right thigh	-	Rs.30,000/-
3. Pain and Sufferings	-	Rs.10,000/-
4. Nutrition and Transport	-	Rs.5,000/-
5. Loss of Income two months (Rs.4000x2)	-	Rs.8,000/-

Total		Rs.93,000/-

7. It is also seen that the appellant/claimant is a power loom weaver by profession and without using his hand, he cannot continue his profession. Accordingly, the Court below should have taken into consideration the same and should have fixed the disability at 30%. Hence, considering the nature of injury sustained by the appellant/claimant, I would like to fix the permanent disability at 30% and enhance the compensation from Rs.30,000/- as awarded by the Court below to Rs.60,000/- by fixing at the rate of Rs.2,000/- per percentage of disability, which would be reasonable.



8. Further, as far as the pain and sufferings is concerned, the amount awarded by the tribunal is enhanced to Rs.20,000/- from Rs.10,000/-. Likewise, the amount awarded under Nutrition and Transport is enhanced to Rs.10,000/- from Rs.5,000/-. Further, as contended by the learned Counsel for the appellant, the appellant has taken treatment even after discharged from the hospital, but no amount was awarded under the head of future medical expenses, a sum of Rs.10,000/- is now awarded towards Future Medical Expenses. Further, it is seen that the Court below had awarded a sum of Rs.40,000/- towards medical expenses which is very reasonable considering the nature of the injuries sustained by the claimant/appellant and Rs.8,000/- awarded for loss of income of two months at the rate of Rs.4,000/- p.m. is enhanced to Rs.9,000/-.

9. Accordingly, the enhanced award amount is as follows:

1. Medical Bills	- Rs.40,000/-
2. Discomfort taken into 30% in right thigh	- Rs.60,000/-
3. Pain and Sufferings	- Rs.20,000/-
4. Nutrition and Transport	- Rs.10,000/-
5. Loss of Income two months (Rs.4500x2)	- Rs. 9,000/-
6. Future Medical Expenses	-Rs.10,000/-

Total	Rs.1,49,000/-
rounded to	Rs.1,50,000/-

10. The 2nd respondent/Insurance Company is directed to deposit the entire enhanced compensation amount of Rs.1,50,000/- [Rupees One Lakh and Fifty Thousand only] to the credit of MCOP No.14 of 2008 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Salem, within a period of six weeks from the date of receipt of a copy of this order along with interest at the rate of 7.5% from the date of petition. It is needless to state that on such deposit being made, the appellant/claimant is entitled to withdraw the entire compensation amount along with interest on making out a proper application before the court below.

11. With the above modification, this Civil Miscellaneous Appeal is allowed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



To

1.The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Salem.

2.The Section Officer,
VR Section, High Court,
Madras

+1 cc to Mr.N.Manokaran Advocate sr.56269

+1 cc to Mr.N.Vijayaraghavan Advocate sr.56618

CMA No.76 of 2009

kji(co)
aa04/11/2015