

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2015

C O R A M

THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI

C.M.A.No.3915 of 2008

Branch Manager,
National Insurance Company Ltd.,
Branch Office,
No.305 Bangalore Road
Krishnagiri.

...Appellant/R2

Vs.

1. Venkatasamy
2. Murugan

... Respondents/Claimant & R1

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 10.01.2007 passed in M.C.O.P.No.1882 of 2003 on the file of the Motor Accident Claims Tribunal (Sub Judge) Krishnagiri.

For Appellant : Mr.D.Bhaskaran

For Respondent-1 : Mr.V.Kumaravelan

For Respondent -2 : Ex parte.

JUDGEMENT

This Appeal is filed by the Insurance Company, questioning the award of compensation made in favour of the injured. The main grievance raised in this Appeal is against the quantum of compensation of Rs.50,000/- and Rs.45,000/- awarded under the headings Pain and Sufferings and Loss of Earnings respectively.

2. For better understanding, the amount awarded as compensation by the Tribunal under different heads are as follows-

Disability-15%	:	Rs. 50,000/-	
Pain and Sufferings	:	Rs. 50,000/-	
Loss of Earnings	:	Rs. 45,000/-	
Partial loss of earnings	:	Rs. 10,000/-	
Conveyance Expenses	:	Rs. 2,000/-	
Extra Nourishment	:	Rs. 3,000/-	
Damages	:	Rs. 2,000/-	
Medical Expenses	:	Rs. 10,000/-	
Future Medical Expenses	:	Rs. 2,000/-	

Total			1,74,000/-

3. Insofar as disputed quantum is concerned, the learned counsel appearing for the appellant/Insurance Company would contend that the injuries sustained by the first respondent/claimant in the accident, as per the medical certificate are not very serious in nature, and except the fracture sustained in the index finger, other injuries are simple in nature, and, as far as fracture sustained in the index finger is concerned, the disability assessed by the Doctor/P.W.2 is 15%, and the same will in no way affect the working or earning capacity of the first respondent/claimant, who, according to the learned counsel is carrying on seasonal agricultural business, as such, the compensation awarded under the abovesaid two heads are highly excessive and exorbitant and the same needs reduction.

4. The contentions putforth by the learned counsel for the appellant/Insurance Company is seriously opposed by the learned counsel appearing for the first respondent/claimant, by contending that the first respondent/claimant has not only sustained fracture in the index finger, but also suffered severe facial disfiguration, on account of which, he has been undergoing mental agony, and therefore, the amount of Rs.50,000/- awarded for Pain and Sufferings is just and reasonable.

5. In my considered view, the plea regarding facial disfiguration taken by the learned counsel appearing for the first respondent/claimant is not supported by any substantial evidence. The claimant might have stated so in the Claim Petition, but he has not adduced any medical records to fortify his claim. That apart, such plea was given up during enquiry before the Tribunal. That being so, considering the nature of his disability, this Court is inclined to reduce the compensation awarded for Pain and Sufferings to Rs.25,000/-. Similarly, as the fracture sustained by the first respondent/claimant in the index finger is not likely to affect his earning capacity, the compensation of Rs.45,000/-awarded under the heading "Loss of Earnings" is also reduced to Rs.20,000/-.

6. In the result, the compensation awarded by the Tribunal is reduced from Rs.1,74,000/- to Rs.1,24,000/-, which is rounded off to Rs.1,25,000/-. The award of the Tribunal is confirmed in other aspects.

Time for deposit of the amount is four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the amount by filing necessary Cheque Petition before the Tribunal.

7. Civil Miscellaneous Appeal is accordingly allowed. No costs.

-sd/-

ASSISTANT REGISTRAR

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

sd

To

1. The Motor Accident Claims Tribunal/Sub Judge,
Krishnagiri.

2. The section Officer,
V.R.Section, High court, Madras

+1 CC to MR. V.KUMARAVELAN ADVOCATE. SR.NO. 39730

सत्यमेव जयते

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CO-KSJ
JD 08/10/2015

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