

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.4.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA.No.346 of 2001

J.Gandhi

... Appellant

Versus

1.B.V.Srinivasalu

2.M/s.United India Ins.Co.Ltd.,
C/o.Motor Third Party Claims Officer,
No.38,Annasalai, Chennai-2.

... Respondents

This appeal is filed under Section 173 of the Motor Vehicles Act against the judgement and award of the Motor Accidents Claims Tribunal, Principal Sub Judge, Chingleput in MCOP.No.555 of 1994 dated 19.9.2000.

For Appellant : Mr.T.G.Balachandran
For Respondents : Mr.G.Udhaya Sankar for R2
R1 Set Exparte in Tribunal

JUDGEMENT

The above appeal has been preferred by the claimant against the award of Rs.48,500/- for the injuries sustained by him in the accident on 20.6.1994.

2. Heard Mr.T.G.Padmanabhan, learned counsel appearing for the appellant and Mr.G.Udayasankar, learned counsel appearing for the second respondent.

3. The only question to be determined is with regard to quantum of compensation. The Tribunal awarded a sum of Rs.48,500/- towards compensation. The Tribunal awarded Rs.25,000/- towards disability. The nature of injuries sustained by the claimant are right temporal fissure fracture and contusion in brain and it is evident from the medical records.

4. From the above, it is clear that the claimant sustained grievous injuries and therefore, 60% partial disability has been suffered by the claimant as proved by PW2 Doctor evidence as well as medical records.

5. According to the claimant, because of the disability, he cannot do his avocation as before the accident. Therefore, the loss of earning would be 60%. The claimant is a van driver and his age was 32 years on the date of accident. A driver would have earned a sum of Rs.2000/- per month. Therefore, the loss of income is determined as follows:

$\text{Rs.2000/-} \times 12 \times 17 \times 60/100 = \text{Rs.2,44,800/-}$.

6. Rs.25,000/- awarded towards disability is deleted. Rs.5,000/- awarded towards pain and suffering is enhanced to Rs.15,000/-. Towards medical expenses Rs.11489/- awarded by the Tribunal and rounded to Rs.11,500/- is confirmed. Rs.1000/- awarded towards extra nourishment is enhanced to Rs.15,000/-. Towards loss of amenities no amount was awarded and therefore, Rs.15,000/- is awarded. No amount was awarded towards attender charges and hence, Rs.7,000/- is awarded towards attender charges. Rs.1000/- awarded towards transportation is too low and hence Rs.5,000/- is awarded. Totally Rs.3,13,300/- rounded to Rs.3,13,000/- is awarded along with interest at 9% per annum. Accordingly the award amount is enhanced from Rs.48,500/- to Rs.3,13,000/-. The enhanced award amount only carries 7.5% per annum interest. The appeal is partly allowed. No costs. The appellant is directed to pay the necessary additional court fee. The second respondent is directed to pay the entire modified award amount along with interest and costs after deducting the amount if any already deposited. Consequently the connected CMP.No.262 of 2014 and C.M.P.No.4588 of 2001 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sub Judge, Chingleput.

2. The Section Officer,

VR Section, High Court, Madras.

+1cc to M/s. T. G. Balachandran, Advocate, S.R.No.20392

+1cc to M/s. G. Udayasankar, Advocate, S.R.No.20935

RSK(CO)

EU(07/07/2015)

C.M.A.No.346 of 2001