

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED:23.02.2015****CORAM:****THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN****CMA. No.681 of 2002**

P.A. Duraisamy

.. Appellant

Vs.

1. Santhosh Gaikwad
2. J.D. Gaikwad
3. The Oriental Insurance Co., Ltd.,
Thane D.O. Arjun Towers,
above I.O.B. Gokhal road,
Naupada, Thane – 400 602.

.. Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 for enhancement of the compensation amount awarded in the Judgment and Decree dated 12.11.2001 made in M.C.O.P.No.83 of 1999 on the file of the Motor Accident Claims Tribunal (Second Additional District Court, Erode).

For Petitioner : Mr.R. Prabakar
for N. Manokaran

For RR3 : Mr. M.B. Raghavan
for Mr.N. Vijayaraghavan

ORDER

The appeal has been preferred by the claimant/appellant being not satisfied with the quantum of Rs.1,11,500/- awarded by the Tribunal as compensation for the injuries sustained by him in the accident occurred on 07.02.1998 when the appellant was riding his motor cycle which was hit by the lorry insured with the third respondent.

2. Heard Mr.R. Prabakar, learned counsel representing Mr.N. Manokaran, learned counsel appearing for the appellant, and

Mr. M.B. Raghavan representing Mr.M.N. Vijayaraghavan, learned counsel appearing for the third respondent.

3. It is a case of amputation of right leg. Therefore, according to the PW2's evidence as well as medical records and also on seeing the claimant, thereby the Tribunal rightly determined permanent disability at 60%. However, without application of the multiplier method, the Tribunal awarded simply Rs.60,000/- as compensation. Therefore, considering the amputation of leg of the claimant, this Court determines the compensation applying the multiplier method.

4. Though the claimant was earning about Rs.4,000/-, he lost his job. As per Ex.A12, the Tribunal fixed the monthly income at Rs.1,250/-. The claimant already filed the documents and that it is seen from Ex.A.11, letter of appointment, the petitioner was directed to undergo two years training and stipend was fixed at Rs.750/-. If the claimant was absorbed, then definitely, he would have earned about Rs.4000/- p.m.

5. The appellant's appointment order was passed on 04.05.1992 and dismissal order was passed on 10.03.1999. Therefore, the monthly salary is fixed at Rs.4000/- for a machine holding operator in ABT company. Therefore, the loss of income is determined as follows:

$$\frac{4000 \times 60 \times 12 \times 60}{100} = 4,60,000$$

100

6. Towards pain and sufferings, only Rs.10,000/- has been awarded and hence, the same is enhanced to Rs.25,000/-. For transport and extra

nourishment, only Rs.2000/- is awarded and the same is enhanced under each head to Rs.10,000/-; Medical expenses Rs.7500/- is confirmed. No amount is awarded towards loss of amenities. Therefore, Rs.25,000/- is awarded for amenities and for future medical expenses, a sum of Rs.15,000/- is awarded. Award of Rs.1,11,500/- is enhanced to Rs.5,47,500/- rounded to Rs.5,50,000/- and interest at 9% is confirmed. However, for enhancement amount, only 7.5% interest is applicable. The third respondent is directed to deposit the entire amount along with interest and costs, deducting the amount already deposited within a period of six weeks from the date of receipt of copy of this order. On such deposit, the claimant/appellant is permitted to withdraw the entire amount.

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

23.02.2015

gv

To

The Motor Accident Claims Tribunal (Second Additional District Court, Erode).

N. KIRUBAKARAN,J.

CMA. No.681 of 2002

23.02.2015