

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.11.2016

DATED : 15.12.2016

CORAM :

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

CMA.No.1313 of 2011

M.Vadivelu

... Appellant

Vs.

1.P.V.Balaji
(set exparte in the trial Court)

2.The New India Assurance Co. Ltd.,
No.92, GN Chetty Road,
T.Nagar, Chennai-17.

... Respondents

PRAYER : Petition filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 16.03.2009 made in MACT.OP.No.4268 of 2007 on the file of the III Judge, Motor Accidents Claims Tribunal (Small Causes Court), Chennai.

For appellant : Mr.C.K.Munusamy for
C & K Law firm.
For respondents : Mr.C.Ramesh Babu for R2.
R1- Exparte.

JUDGMENT

The Civil Miscellaneous Appeal is filed against the order dated 16.03.2009 made in MACT.OP.No.4268 of 2007 on the file of the III Judge, Motor Accidents Claims Tribunal, Small Causes Court, Chennai, for enhancing the compensation awarded to the appellant.

2. The learned counsel for the appellant mainly contended that the trial Court ought to have considered the fact that the injured was working as a Production Officer and earning not less than Rs.14,000/-p.m. The trial Court ought to have awarded compensation under the heads of loss of income to the family members, mental agony and mental torture etc. The trial Court ought to have awarded Rs.50,000/- for pain and sufferings and to have fixed 60% disability as per the Ex.P8/Disability certificate issued by the Doctor, the trial Court failed to

adopt multiplier method in order to assess the earning capacity of the injured. The learned counsel prays to enhance the compensation as prayed for.

3. The learned counsel for the second respondent/insurance company submitted that the Tribunal after considering the entire oral and documentary evidences passed the compensation which is very much reasonable and there is no illegality or infirmity in the order of the Tribunal and the learned counsel prays for dismissal of the appeal.

4. Heard the rival submissions made on both sides and perused the records.

5. The learned counsel for the appellant would mainly argued that the disability has to be fixed at 60% by adopting multiplier method and to award compensation for pain and sufferings and other heads has to be increased considerably. The trial Court after considering the evidence adduced on either side came to a conclusion that the claimant is still working as a Production Officer in the same company without any discontinuance. The trial Court has not properly adopted the multiplier method, this Court after considering the arguments of the learned counsel comes to the conclusion that the compensation has to be passed by applying the multiplier method. It is admitted that the present claimant is still working as a production officer in the same company. The trial Court awarded compensation under the following heads :

HEADS	Rs.
Loss of earnings	25,000
Transportation	2,000
Extra nourishment	2,000
Damages for motorcycle, clothing and articles	3,000
Other expenses	1,000
permanent disability	50,000
Pain and sufferings	22,000
loss of amenities	10,000
loss of expectation of life	10,000
Total	1,25,000

6. Ex.P8/Disability Certificate issued by the Doctor has fixed the disability at 60%, the trial Court after examining the Exs.P1 and P2/Accident Registers fixed the disability at 50% and awarded the compensation of Rs.50,000/- under the head of permanent disability. This Court is of the considered view to

enhance the compensation on the heads of permanent disability and pain and sufferings.

7. In the result, the appeal is partly allowed by enhancing the compensation under the heads of permanent disability from Rs.50,000/- to Rs.60,000/- and for pain and sufferings from Rs.22,000/- to Rs.32,000/-, total compensation enhanced from Rs.1,25,000/- to Rs.1,45,000/-. The award passed by the Tribunal remains unaltered in other respects. The second respondent/insurance company is directed to pay the enhanced amount of compensation along with interest within thirty days from the date of receipt of a copy of this judgment. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

tsh

To

1. The III Judge, Motor Accidents Claims Tribunal (Small Causes Court), Chennai.
2. The Section Officer, VR Section, High Court, Chennai.

+1cc to Mr.Ramesh Babu, Advocate Sr, 73088

+1cc to M/S. C.Munusamy, Advocate Sr. 7324

CMA.No.1313 of 2011

AD(CO)
VR(05/06/2017)

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