

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 15.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.727 of 2011

Govindaraj

.. Appellant/Claimant

.Vs.

1.Balasamy(exparte)

2.The Divisional Manager,
United India Ins.Co.,Ltd.,
No.46, Katpadi Road,
Vellore.

..Respondents/Respondent

This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and decree dated 30.03.2007 made in M.C.O.P.No.637 of 2006 on the file of the Motor Accident Claims Tribunal (Additional Sub Judge) Thiruvannamalai.

For Appellant : M/s.F. Terry Chellaraja
For R2 : Mr.J.Chandran

ORDER

Having not satisfied with the award of the Tribunal dated 30.03.2007, the claimant has filed this appeal seeking enhancement of compensation.

2.The appellant/claimant had moved the Claims Tribunal with a claim petition in MCOP.No.637 of 2006 on the file of the Motor Accident Claims Tribunal (Additional Sub Court) Tiruvannamalai, claiming a sum of Rs.5,00,000/- for the injuries sustained by him in a road traffic accident, said to have been taken place on 08.12.2005 at 3.45 p.m.at Tindivanam Town.

3. The first respondent being the owner of the vehicle remained exparte. The second respondent /Insurance Company had alone contested the claim. Based on the evidences available on record, the Claims Tribunal had proceeded to award a total sum of Rs.37,000/- towards the compensation directing the respondents 1 and 2 to pay the amount jointly and severally along with interest at the rate of 7.5% p.a. within a period of two months.

4. P.W.2 Dr.Ravindran had examined the appellant clinically and assessed his disability to the extent at 20%. P.W.2 has stated that the movements of right leg knee was found restricted and therefore, the disability was assessed at 20%.

5. The Tribunal had awarded a total sum of Rs.37,000/- under the following heads.

i) injuries and other damages	:	Rs.30,000/-
ii) Pain and suffering	:	Rs.6,000/-
iii) medical expenses & transport expenses	:	Rs.1,000/-

		Rs.37,000/-

6. The learned counsel for the appellant has contended that the disability certificate issued by P.W.2 in respect of the disability suffered by the claimant was not at all considered by the Tribunal. It is obvious to note that Ex.P.6- Disability Certificate issued by P.W.2 was not considered and no amount of compensation was granted based on the disability suffered by the claimant. The Tribunal has simply awarded a sum of Rs.30,000/- towards the permanent disability.

7. On the basis of disability certificate under Ex.P6, a sum of Rs.2,000/- per percentage, can be awarded towards the compensation for permanent disability. Since the appellant has suffered with 20% disability, he is entitled to get Rs.40,000/- (20% x 2000/). Apart from this, another amount of Rs.20,000/- can be awarded towards the compensation for pain and suffering and Rs.7,000/- can be awarded towards medical expenses and transport expenses.

8. Accordingly, the compensation awarded by the Tribunal stands modified as follows:

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this Court
1	Compensation for permanent disability	Rs.30,000/-	Rs.40,000/-
2	Pain and Suffering	Rs. 6,000/-	Rs. 20,000/-
5	Medical expenses & Transport Charges	Rs. 1,000/-	Rs. 7,000/-
	Total	Rs.37,000/-	Rs. 67,000/-

9. Hence, the award passed by the Tribunal to the extent of Rs.37,000/- is enhanced to Rs.67,000/- by adding an amount of Rs.30,000/- as aforestated.

10.The second respondent/Insurance Company is directed to pay the award amount along with the interest at the rate of 7.5% p.a. within a period of four weeks from the date of receipt of a copy of this order, after deducting the amount already deposited if any, the appellant/claimant is permitted to withdraw the entire award amount along with accrued interest without filing any formal application and seeking permission.

11.With the above observation, this appeal is partly allowed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kkd

To

The Motor Accident Claims Tribunal,
(Additional Sub Judge),
Thiruvannamalai.

+1cc to M/s. J. Chandran, Advocate, S.R.No.32680
+1cc to M/s. M. Malar, Advocate, S.R.No.32742

VD(CO)
EU(26/09/2016)

C.M.A.No.727 of 2011

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