

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.M.A.No.478 of 2013

P.Sathiyamoorthy

.. Appellant/Claimant

.Vs.

1.G.Moorthy

(R1 was set exparte in the Trial Court)

2.Universal Sompo General Insurance Co.,Ltd.,

Capitale Towers, 5th Floor,

No.554 & 555, Anna Salai,

Teynampet, Chennai 600 018. ..Respondents/Respondents

This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the award and decree dated 05.09.2012 made in M.C.O.P.No.4209 of 2010 on the file of the Motor Accident Claims Tribunal (V Judge, Small Causes Court) Chennai.

For petitioner : Mr.Arun
for Mr.C.Munusamy
For R2 : Mr.Mohan Babu

O R D E R

Not being satisfied with the award passed by the Tribunal, the appellant/claimant has filed this appeal under Section 173 of the Motor Vehicles Act 1988, seeking enhancement of compensation.

2.The appellant/claimant had moved the motor accident claims tribunal with a claim petition in MCOP.No.4209 of 2010, claiming a sum of Rs.3,00,000/- for the injuries sustained by him in a road traffic accident said to have been taken place on 05.11.2010 involving the motor cycle bearing Registration No.TN.05.AF.0528.

3. The second respondent-Insurance Company had contested the claim, while the first respondent being the owner of the vehicle remained exparte. Based on the evidences available on record, the Tribunal had proceeded to award a total award of Rs.1,18,600/- under the following heads.

Pecuniary Loss

i) Transportation	:	Rs. 5,000/-
ii) Extra nourishment	:	Rs.10,000/-
iii) Medical expenses	:	Rs. 18,036/-
iv) Damages to clothes	:	Rs. 500

Non Pecuniary Loss

i) Pain and suffering	:	Rs.25,000/-
ii) Disability at 30% at the rate of Rs.2000/- per percentage :		Rs.60,000

Total		Rs.1,18,536/-

(Rounded to Rs.1,18,600/-)

4. On perusal of the award, it is revealed that P.W.2 Mr.J.R.R.Thiyagarajan, for the purpose of assessing the disability had examined the appellant clinically and found that he was suffered with the total disability at 50% and opined as partial and permanent one. However, the Tribunal had determined the disability at 30%.

5. Mr.Mohan Babu, learned counsel appearing for the second respondent has contended that P.W.2 was not having competency to issue disability certificate under Ex.P8 because he is a general physician and not a specialist in Ortho and even the disability fixed by P.W.2 was also on the higher side. The Tribunal had reduced the disability to the extent of 30% from 50%, accordingly, awarded a sum of Rs.60,000/- towards partial and permanent disability i.e. Rs.2000/- per percentage.

6. The learned counsel for the respondent /Insurance Company has contended that the award passed by the Tribunal was very reasonable and hence did not warrant any interference of this court. However, Mr.S.Arunkumar, learned counsel appearing for the respondent would submit that under the head of amenities, no award was passed by the Tribunal and therefore, he has urged this Court, to add a sum of Rs.10,000/- under the head of loss of amenities, as the claimant is an Engineering Student. In other aspects, the award passed by the Tribunal under various heads shall remain intact.

7. Considering the submissions made by the learned counsel for the appellant, this Court finds that a sum of Rs.10,000/- can be added with the award of the Tribunal. After making the addition of Rs.10,000/-, the total award comes to Rs.1,28,600/-.

8. It is brought to the notice of this Court that the entire

award amount of the Tribunal @ Rs.1,18,600/- was deposited along with interest @ 7.5% as directed by the Tribunal. The second respondent/Insurance Company is directed to deposit the enhanced compensation of Rs.10,000/- along with interest @ 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order. On making such deposit by the second respondent/Insurance Company, the appellant is at liberty to withdraw the entire amount without filing any formal application seeking permission.

9. With the above observation, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

The Registrar,
V Judge, Small Causes Court, Chennai.

+1 cc to Mr.C.Munusamy, advocate,sr.35412

+1 cc to Mr.N.Vijayaraghavan,advocate,sr.35569.

ala(co)
krd 25/10

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