

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.11.2016
Date of Verdict : 15.12.2016

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.No.1629 of 2001

Arumugam ... Appellant/Petitioner

. Vs .

1. R.Murali

2. The United India Insurance Co. Ltd.,
Motor Third Party Claims Officer,
38, Anna Salai,
Chennai-600 002. ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 24.09.2001 and made in M.C.O.P.No.2611 of 1998, on the file of the Motor Accident Claims Tribunal, II Judge, Court of Small Causes at Chennai.

For Appellant : Mr.J.Mahalingam

For Respondents : R1 - Exparte
Mr.R.Ravichandran for
Mr.K.Narasimhan for R2

JUDGMENT

This civil miscellaneous appeal is directed against the judgment and decree dated 24.09.2001, made in M.C.O.P.No.2611 of 1998, on the file of the Motor Accident Claims Tribunal, II Judge, Court of Small Causes at Chennai.

2. The appellant, as a claimant, has filed a claim petition in M.C.O.P.No.2611 of 1998 before the Motor Accidents Claims Tribunal, II Judge, Court of Small Causes at Chennai, for the injuries sustained by him. The Tribunal, after considering the evidence and after hearing the arguments of both sides, awarded a sum of Rs.51,500/- towards compensation to the appellant. Aggrieved against the said order of the Tribunal, the present appeal is preferred by the appellant seeking enhancement of the claim.

3. The learned counsel appearing for the appellant/claimant would mainly contend that the Trial Court,

without considering the injury sustained by the petitioner, awarded a meager sum of Rs.51,500/- towards compensation. The Tribunal failed to consider the fracture in the bones and multiple injury sustained by the appellant. The Tribunal, without considering the above fact, reduced the disability from 25% to 20%. It is also contended that the Tribunal has not awarded the compensation on the proper course and hence the compensation awarded by the Tribunal has to be enhanced from Rs.51,500/- to 1,00,000/-.

4. The learned counsel appearing for the second respondent would contend that the Tribunal, after considering the facts and circumstances of the case, had correctly awarded the compensation and hence, there is no illegality or infirmity or perversity in the order passed by the Tribunal and hence, the order of the Tribunal has to be confirmed and the civil miscellaneous appeal has to be dismissed.

5. This Court heard the arguments of the both sides and perused the documents produced by both sides.

6. On a perusal of the judgment of the Tribunal, it is seen that the Tribunal has fixed the compensation of a sum of Rs.51,500/-. Even though the petitioner, in his claim petition had claimed Rs.2,00,000/-, it was restricted to only Rs.1,00,000/-.

7. The Tribunal, after considering the evidence of the petitioner and the type of injury sustained by him, has fixed the disability only to 20%. This Court finds that there is no illegality in fixing the permanent disability as 20%. The Tribunal after considering the evidence and documents awarded the compensation under the following heads:-

Loss of Income	-	Rs. 1,000/-
Transport expenses	-	Rs. 500/-
Expenses for nourishments	-	Rs. 500/-
Medical expenses	-	Rs. 2,000/-
For damages to vehicle and cloth	-	Rs. 2,000/-
For mental and physical shock	-	Rs. 2,000/-
Pain and sufferings	-	Rs.10,000/-
Future expectation and discomfort	-	Rs. 3,500/-
Permanent disability (20%)	-	Rs.20,000/-
Loss of earning power	-	Rs.10,000/-

		Rs.51,500/-

8. Considering the fact that the claimant has incurred loss of earning during the treatment period and an amount of Rs.2,000/- is fixed under the head of loss of earning during the treatment period. Further, the Tribunal, under the head of pain and sufferings, awarded a sum of Rs.10,000/- to the claimant. Considering the fact that the claimant has suffered so many injuries and has taken treatment for the above injuries, the amount awarded under the head pain

and sufferings has to be enhanced to Rs.15,000/- from Rs.10,000/-. This Court is of the considered view that the amount awarded under the head of loss of earning power has to be enhanced to Rs.15,000/- from Rs.10,000/-.

9. Further, the petitioner has not produced any documents for enhancement of the claim for transport to hospital. Hence, the argument of the learned counsel for the appellant that the amount awarded under the head of transport to hospital has to be enhanced is not acceptable. The Tribunal, after considering the evidence, appropriately awarded compensation under the other heads which are confirmed. Accordingly, the compensation payable would be as follows:-

Loss of earning during treatment period	-	Rs. 2,000/-
Loss of Income	-	Rs. 1,000/-
Transport expenses	-	Rs. 500/-
Expenses for nourishments	-	Rs. 500/-
Medical expenses	-	Rs. 2,000/-
For damages to vehicle and cloth	-	Rs. 2,000/-
For mental and physical shock	-	Rs. 2,000/-
Pain and sufferings	-	Rs.15,000/-
Future expectation and discomfort	-	Rs. 3,500/-
Permanent disability (20%)	-	Rs.20,000/-
Loss of earning power	-	Rs.15,000/-

		Rs.63,500/-

10. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is enhanced to Rs.63,500/- from Rs.51,500/-. The respondent - United India Insurance company is directed to deposit the modified award amount of Rs.63,500/- with interest at 9% per annum, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. The appellant/claimant is entitled to withdraw the amount deposited on due application. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Motor Accident Claims Tribunal,
II Judge, Court of Small Causes,
Chennai.

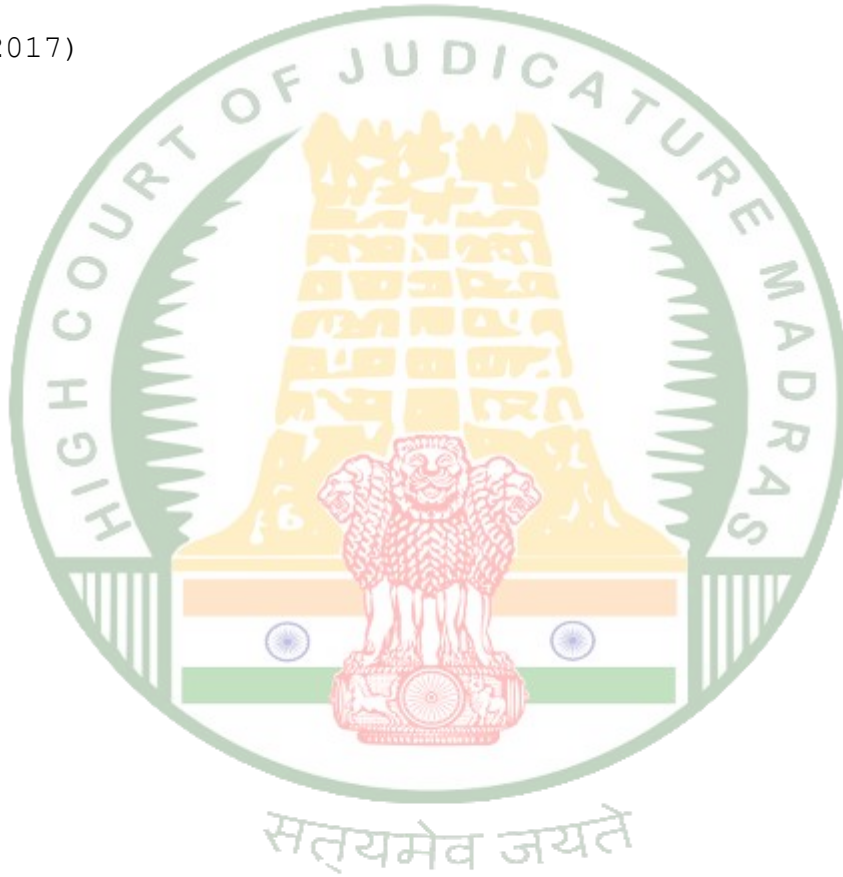
2. The United India Insurance Co. Ltd.,
Motor Third Party Claims Officer,
38, Anna Salai,
Chennai-600 002.

+1cc to Mr.R.Ravichandran, Advocate, S.R.No.73473

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.68700

C.M.A.No.1629 of 2001

PPA(CO)
CA(21/02/2017)



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