

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

CMA.No.1030 of 2017

T.Janakiram ... Appellant/Claimant

Vs

1. S.Vaithiyalingam
2. The United India Insurance Company Limited
No.134, Greams Road, Silingi Building,
IV Floor, HUB, Chennai 6
... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 24.07.2012 made in M.C.O.P.No.4555 of 2009 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : Mr.K.R.Ponnusamy for
Mr.Anand and Suryas

For Respondent-2 : Mr.C.Paranthaman

For Respondent-1 : Set ex-parte

JUDGMENT

This appeal arises against the order passed in M.C.O.P.No.4555 of 2009 on the file of the Motor Accident Claims Tribunal, (V Court of Small Causes, Chennai).

2. This is a case of injury. On 03.09.2009 at about 06.10 a.m., while the claimant was riding two wheeler bearing Registration No.TN-01-AC-7839 on Pursawalkam High Road, proceeding from West to East direction, the auto rickshaw bearing Registration No.TN-29-X-3454, came in a rash and negligent manner from the opposite direction and dashed against the two wheeler, due to which, the claimant sustained injuries. Hence, the claimant filed a claim petition before the Tribunal seeking a sum of Rs.10,00,000/- as compensation for the injuries sustained by him, against which, the Tribunal has passed an award for Rs.2,97,500/-, payable with interest @ 7.5% per annum on the following heads.

Heads	Amount (in Rs.)
Loss of income	73,933/-
Transportation	5,000/-
Extra nourishment	5,000/-
Medical expenses	78,543/-
Damages to vehicle	10,000/-
Pain and Sufferings	35,000/-
Disability at 45% at the rate of Rs.2,000/- per percentage	90,000/-
Total	2,97,476/-
Rounded off	2,97,500/-

3. The learned counsel for the Claimant would contend that the total amount of compensation awarded by the Tribunal is very low and the same needs to be enhanced.

4. Heard the learned counsel for the appellant/claimant and the learned counsel for the second respondent - Insurance Company and perused the materials available on record.

5. P.W.3-The Doctor who examined the claimant clinically, assessed the disability based on medical records and assessed the partial permanent disability at 45% and accordingly, the Tribunal has awarded a sum of Rs.90,000/- at the rate of Rs.2,000/- per percentage. It is seen that P.W.-3- Doctor has certified that there was a fracture of mandible and the claimant has got difficulty in chewing and biting hard objects. Considering the said fact, this Court is inclined to enhance the compensation under the head "Partial permanent disability" fixing the same at 45% and granting Rs.3,000/- for each percentage which will come to Rs.1,35,000/-. So far as the other heads are concerned, the award passed by the Tribunal is confirmed. Accordingly, the compensation awarded by the Motor Accident Claims Tribunal is revised as follows:-

Heads	Amount (in Rs.)
Loss of income	73,933/-
Transportation	5,000/-
Extra nourishment	5,000/-
Medical expenses	78,543/-
Damages to vehicle	10,000/-
Pain and Sufferings	35,000/-
Disability at 45% at the rate of Rs.3,000/- per percentage	1,35,000/-
Total	3,42,476/-
Rounded off to	3,42,500/-

6. On going through the papers, it is seen that there was a delay of 188 days in filing the appeal. The appellant is not entitled to any interest for the said period.

7. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the amount awarded by the Tribunal is enhanced from Rs.2,97,476/- to Rs.3,42,476/- payable with interest at the rate of 7.5% per annum from the date of claim petition till the date of payment and the appellant/claimant is not entitled to any interest for the said period of filing the appeal papers. It is stated that the amount awarded by the Tribunal has already been deposited by the second respondent-Insurance Company and the same has been withdrawn by the Claimant. Now, only the enhanced amount has to be deposited by the second respondent-Insurance Company. The second respondent-Insurance Company is directed to deposit the enhanced portion of Rs.45,000/- (Rs.3,42,500/- -Rs.2,97,500/-) within a period of four weeks from the date of receipt of a copy of this judgment and the claimant is entitled to withdraw the same forthwith. The claimant is directed to pay the necessary Court fee, if any for the enhanced portion of the award amount. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn

To

1. The Motor Accident Claims Tribunal,
V Small Causes Court, Chennai.

+1cc to Mr.C.Paranthaman,Advocate sr.18090

+1cc to M/s.Anand & Suryan,Advocate sr.18604

vd(co)
ss(10/5/2017)

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