

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

C.M.A.No.1609 of 2017

Revathi

... Appellant/Petitioner

..vs..

1. S.V.S.Vijayakumar
 2. M/s. United India Insurnace Company Ltd.,
No.76 VOC Road, 1st Floor,
P.B.No.28, Karaikudi 630 001
(No relief sought for against R-1, hence,
notice may be dispensed with)
- ... Respondents/Respondents

Appeal filed under Section 173 of Motor Vehicles Act 1988, against the decree and Judgment, dated 20.11.2014, made in M.C.O.P.No.1765 of 2011 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Salem.

For Appellant : Mr. C.Prabakaran
For Respondents : Mr. T.Ravichandran, for R-2

J U D G M E N T

The quantum of compensation awarded at Rs.1,76,000/- in respect of the fracture of thigh bone is under challenge by the claimant on the ground that the disablement and the loss of earning capacity have not been assessed properly by the Claims Tribunal. The break up details of the award passed by the Claims Tribunal reads as under:-

Permanent disability (40 x 2000)	-	Rs.	80,000.00
Pain and sufferings	-	Rs.	50,000.00
Partial loss of income	-	Rs.	35,000.00
Food and extra nourishment	-	Rs.	5,000.00
Medical expenses	-	Rs.	2,500.00
Transport charges	-	Rs.	2,500.00
Loss towards personal belongings	-	Rs.	1,000.00

Rs.1,76,000.00

2. The learned counsel appearing for the appellant / claimant would point out that the disablement compensation should have been awarded at Rs.3,000/- per percentage of disability and the award at Rs.2,000/- per percentage is inadequate.

2.1. This contention is well founded. Even from the year 2009, the award of disablement compensation was at Rs.3,000/- per percentage and if that is considered, the award for 45% disability would be at Rs.1,35,000/-.

3. The fracture of thigh bone would have led to the attendant being employed during the period of treatment. Since the attendant charges is not awarded, the same is awarded at Rs.10,000/-.

4. The loss of enjoyment of amenities ought to have been considered, considering the age of the claimant (42 years) and the impact of disablement on the quality of life. Therefore, the loss of enjoyment of amenities is awarded at Rs.10,000/-. Transport Charges, which is awarded at Rs.2,500/-, is too meager, hence, it is enhanced to Rs.10,000/-. The food and extra nourishment ought to have been awarded at a higher rate and therefore, it is awarded at Rs.10,000/-. Therefore, the overall award of compensation is fixed at Rs.2,63,500/-. Thus, the award is enhanced from Rs.1,76,000/- to Rs.2,63,500/-. The breakup details of the enhanced (restructured) compensation reads thus:-

Permanent disability (45 x 3000)	-	Rs.1,35,000.00
Pain and sufferings	-	Rs. 50,000.00
Partial loss of income	-	Rs. 35,000.00
Food and extra nourishment	-	Rs. 10,000.00
Medical expenses	-	Rs. 2,500.00
Transport charges	-	Rs. 10,000.00
Loss towards personal belongings	-	Rs. 1,000.00
Attendant Charges	-	Rs. 10,000.00
Loss of amenities of life	-	Rs. 10,000.00

		Rs.2,63,500.00

5. In the result, the Civil Miscellaneous Appeal is allowed, to the extent indicated. The enhanced amount of compensation, as ordered by this Court, shall be deposited by the second / Insurance Company, less the amount already deposited, if any, along with interest at 7.5% per annum, from the date of petition till the date of deposit, within a period of four weeks from the

date of receipt of a copy of this judgment. The claimant is not entitled to the interest for the default period. On such deposit being made, the claimant / appellant herein is permitted to withdraw the entire amount of compensation. The claimant shall pay the necessary court fee before receiving the copy of the judgment. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

srk

To

1.Motor Accident Claims Tribunal,
Special Sub Court, Salem.

2.The Section Officer, V.R.Section,
Madras High Court, Chennai 104

+1cc to M/S.C.Prabakaran, Advocate Sr. 42872

+1cc to M/S.T.Ravichandran, Advocate Sr. 47877

C.M.A.No.1609 of 2017

KJ(CO)
VR(06/10/2017)

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