

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.1740 of 2017

Rajaram

...Appellant/Petitioner

Vs

1.Senthil Kumar

2.Senthil Kumar Textiles Mills (P) Ltd.,
111/113, Easwaran Kovil Street,
Kumar Building, NMS Compound,
Erode - 638 001.(Notice to R1 and R2 may be dispensed with
Since appeal filed only for enhancement of Compensation and
award passed against 3rd respondent)

3.Bajaj Alliance General Insurance Co Ltd.,
D.No.11, Peoples Park Street, 3rd Floor,
Government Arts College Road,
Coimbatore - 641 018 ...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988 to set aside the order made in
M.C.O.P.No.144 of 2009 on the file of the Motor Accident Claims
Tribunal Cum Fast Tract Court No.4, Bhavani, Erode District,
dated 25.01.2011 and for enhancement of compensation.

For Appellant : Mr.C.Kulanthaivel

For Respondents : Mr.D.Bhaskaran for R3

R1 & R2 - Notice

Dispensed with

JUDGMENT

The claimant Rajaram, aged 43 years, a Salesman at Earry &
Earry Company at Erode, earning a sum of Rs.6,000/-p.m., met
with an accident on 06.12.2008.

2. In respect of the injuries sustained and consequent
disablement, he filed the claim petition, claiming the
compensation for a sum of Rs.5,00,000/-.

3. The Tribunal on consideration of materials placed before it has awarded a sum of Rs.78,270/- with the following breakup details.

Disablement compensation (16%):	Rs.32,000/-
Medical expenses : (As per bills)	Rs.24,270/-
Pain and sufferings :	Rs.10,000/-
Extra nourishment :	Rs.10,000/-
Transportation expenses :	Rs.2,000/-

	Rs.78,270/-

4. Aggrieved over the compensation awarded and branding the compensation as inadequate the claimant has preferred this appeal.

5. It is the grievance of the claimant that no compensation has been awarded for a) Loss of enjoyment of amenities, b), Attendant charges, c) Loss of earning during the treatment period especially when the compensation for loss of earning capacity has not been quantified using multiplier method.

6. It is also the grievance of the claimant that the disablement compensation ought to have awarded at the rate of Rs.3,000/- per percentage, especially, when the earning capacity has not been quantified using the multiplier method of quantification.

7. The learned counsel for the insurance company would submit that the amount of compensation already awarded is highly reasonable and when the claimant suffered 16% permanent disablement, award of disablement compensation is appropriate and that it is not a case which warrants quantification of compensation by adopting multiplier method of quantification.

8. In order to appreciate the contention of the learned counsel on both sides, it is necessary to look into the nature of injuries and the period of treatment. The claimant has suffered crush injury over the right foot apart from the injury over the left eye. He has been admitted as inpatient from 06.12.2008 at Maruti Medical centre Hospital, Erode. The medical expenses itself has been quantified at Rs.24,270/-, which are supported by medical bills.

9. Under these circumstances, the contention of the learned counsel for the appellant that the attendant charges ought to have been awarded at Rs.10,000/- is justified. Accordingly attendant charges is awarded at Rs.10,000/-. Transport expenses is further enhanced to 8,000/-, apart from Rs.2,000/-, which has been already awarded by the Tribunal. Likewise pain and sufferings is enhanced to Rs.20,000/- from Rs.10,000/-.

10. Having regard the nature of injuries loss of income atleast for the period of three months has to be awarded and a sum of Rs.13,500/- is awarded at the rate of Rs.4,500/-p.m.

11. It is contended that as per the settled principles, procedure and practice, disablement compensation has to be awarded at the rate of Rs.3,000/- per percentage. Accepting the contention a sum of Rs.48,000/- is awarded as disablement compensation $\text{Rs.3,000} \times 16 = \text{Rs.48,000/-}$

12. The only remaining issue to be considered is the award pertaining to loss of enjoyment of amenities.

13. So far as the petitioner is concerned, he is aged 43 years and employed as a Salesman. The nature of job requires extensive travelling. The petitioner has to travel along with 16% disablement. Loss of amenities and discomfort including disfigurement is estimated at Rs.20,000/-.

14. Thus the award is enhanced from Rs.78,270/- to Rs.1,55,770/-, as detailed below :-

Disablement compensation (16%):	Rs.48,000/-
$\text{Rs.3000} \times 16\%$	
Pain and sufferings :	Rs.20,000/-
Medical expenses :	Rs.24,270/-
(As per bills)	
Extra nourishment :	Rs.10,000/-
Transport expenses :	Rs.10,000/-
Loss of amenities and discomfort including disfigurement:	Rs.20,000/-
Attender Charges :	Rs.10,000/-
Loss of income during treatment period $\text{Rs.4500} \times 3$:	Rs.13,500/-

	Rs.1,55,770/-

15. To the extent indicated above, the appeal stands allowed. No costs.

16. The third respondent / insurance company shall deposit the entire compensation awarded by the Tribunal along with enhanced amount of compensation, as determined by this Court less the amount already deposited, if any along with interest @

7.5%, (less the period of delay 443 days) from the date of petition till the date of deposit within a period of four weeks from the date of receipt of copy of this Judgment.

17. Court fee payable by the claimant, if any shall be paid before receipt of copy of the Judgment.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Presiding Officer
Motor Accident Claims Tribunal Cum Fast Tract Court No.4,
Bhavani, Erode District,
2. The Section Officer,
V.R. Section,
High Court, Madras - 104.

+1 cc to Mr.D.Bhaskaran Advocate sr 46079

+1 cc to Mr.C.Kulanthaivel Advocate sr 46070

C.M.A. No.1740 of 2017

msm(co)
aa21/08/2017

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