

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.2760 of 2016

S.Prapakaran

... Appellant / Petitioner

versus

1. Kedar Singh

2. The Manager,

The National Insurance Co. Ltd.,

Now at, No.751, Anna Salai,

HUB, III-Floor, Chennai - 6. ... Respondents/Respondents

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.08.2012 made in M.C.O.P.No.66 of 2010 on the file of the Motor Accident Claims Tribunal (Sub Court), Thiruttani.

For Appellant : Mr.K.R.Ponnusamy
for M/s.Anand and Suryas
For R2 : Mr.P.Sankaranarayanan

JUDGMENT

In respect of the accident that took place on 14.04.2008, the claimant, who suffered 95% permanent disability, has filed a claim petition in M.C.O.P.No.66 of 2010 before the Motor Accident Claims Tribunal (Sub Court), Thiruttani, claiming compensation of Rs.15,00,000/-.

1.1. The Tribunal after considering the oral and documentary evidence, awarded a sum of Rs.13,99,376/- as compensation, payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The break-up details of the award read as under:

WEB COPY

S. No.	Heads	Tribunal (Amount In Rs.)
1.	Loss of earning power	Rs.8,64,000/- (Rs.4,000 x 12 x 18)
2.	Pain and suffering	Rs.30,000/-
3.	Loss of amenities	Rs.1,00,000/-
4.	Medical expenses	Rs.3,30,376/-
5.	Future medical expenses	Rs.25,000/-
6.	Transportation	Rs.20,000/-
7.	Nutrition	Rs.15,000/-
8.	Attendant charges	Rs.15,000/-
Total		Rs.13,99,376/-

1.2. Challenging the quantum of compensation as inadequate, the claimant has filed this appeal.

2. In order to appreciate the same, it is necessary to look into the nature of injuries sustained by him.

2.1. The claimant was aged 26 years, a Finning worker, earning a sum of Rs.4,213/-p.m. He took treatment as in-patient for 62 days, apart from out-patient treatment and he suffered left side hemiplegia, loss of sensation on account of head injury, left leg tibia fracture and right hand fracture. The Doctor has certified the disability at 95% and the Tribunal has taken the functional disability at 100%. Left leg strength has been reduced. As there was no sensation from abdomen till the end of the leg, the claimant could not walk, therefore, it is equivalent to loss of one leg. The claimant has lost his job and thus, he suffered loss of earnings as well as loss of earning capacity. The Tribunal, while adopting the multiplier method, has not considered the future prospective increase in income. Considering the future prospective at 50%, the loss of earning capacity has to be calculated. It is also stated that he is an unmarried person and thus, he has suffered loss of marriage prospects and loss of enjoyment of amenities. Accordingly, the award is enhanced on the appropriate heads.

S. No.	Heads	Tribunal (Amount In Rs.)	Award by this Court
1.	Loss of earning power	Rs.8,64,000/- (Rs.4,000 x 12 x 18)	Rs.12,24,000/- (Rs.6000 x 12 x 17)
2.	Pain and suffering	Rs.30,000/-	Rs.60,000/-
3.	Loss of amenities	Rs.1,00,000/-	Rs.50,000/-
	Loss of marital prospects		Rs.1,00,000/-
4.	Medical expenses	Rs.3,30,376/-	Rs.3,30,376/-
5.	Future medical expenses	Rs.25,000/-	Rs.75,000/-
	Transportation	Rs.20,000/-	Rs.30,000/-
	Nutrition	Rs.15,000/-	Rs.15,000/-
	Attendant charges	Rs.15,000/-	Rs.15,000/-
Total		Rs.13,99,376/-	Rs.18,99,376/- Rounded to Rs.19,00,000/-

3. In the result, the Civil Miscellaneous Appeal is allowed, enhancing the compensation from Rs.13,99,376/- to Rs.19,00,000/-.

4. The Insurance Company is directed to pay the enhanced amount of Rs.19,00,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the same. The claimant shall pay the Court Fee for the enhanced compensation. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ogy

To

1. The Motor Accident Claims Tribunal,
(Sub Court),
Thiruttani.

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

+1cc to Mr.SANKAR NARAYANAN, Advocate, S.R.No. 11769

+1cc to Mr.ANAND & SURYA ASSO. Advocate, S.R.No. 12379

C.M.A.No.2760 of 2016

MG (CO)
TR(27/11/2017)



WEB COPY