

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.02.2017

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THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.745 of 2015

and

M.P.No.1 of 2007

K.E.Kochuouni .. Appellant/Petitioner

versus

1. C.Krishnan

2. The United India Insurance Co-Ltd.,
Branch Office,
85, Salem Road,
Namakkal.

.. Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.1141 of 2002 dated 20.06.2006, on the file of the Motor Accidents Claims Tribunal/Sub Court Namakkal.

For Appellant : Mr.N.S.Suganthan
for Mr.N.Manokaran
For Respondents: Mr.T.Ravichandran (R2)

J U D G M E N T

Challenging the inadequate compensation awarded by the Claims Tribunal in M.C.O.P.No.1141 of 2002, the claimant has come forward with this appeal.

2. The Claimant Mr.K.E.Kochunni, aged 45 years, working as a labour in a water treatment plant, earning a sum of Rs.4,914/- met with an accident on 11.01.1997 in which he sustained multiple grievous injuries. Hence, he filed a claim petition seeking compensation in a sum of Rs.10,00,000/-.

3. On consideration of oral and documentary evidence, the Tribunal awarded a sum of Rs.2,14,800/-, under the following break-up details:

Medical Expenses	-	Rs.51,800/-
Transportation	-	Rs. 5,000/-
Disability (50%)	-	Rs.50,000/-
Loss of Income		
(Rs.3,000/- p.m.)	-	Rs.78,000/-

Pain and suffering	-	Rs.20,000/-
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Additional Nutrition-		Rs.10,000/-
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<https://hcservices.ecourts.gov.in/hcservices/>

Total		Rs.2,14,800/-
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4. The learned counsel appearing for the appellant submits that though the disability was assessed @ 90% by P.W.2, the Doctor, who examined the claimant, the Tribunal has fixed the disability only @ 50%. He further submitted that the Tribunal ought to have awarded compensation at the rate of Rs.2,000/- per percentage of disability. He further submitted that the Tribunal has not awarded any compensation towards loss of enjoyment of amenities. It fine, it is contended by the learned counsel for the appellant that the compensation awarded under the various heads is on the lower side and the same requires to be enhanced.

5. Heard the learned counsel appearing for the appellant and perused the award passed by the Tribunal and the basis on which such an award has been passed.

6. It is seen from the record that P.W.2, the Doctor, who examined the claimant has assessed the disability at 90%. However, the Tribunal, conservatively has fixed the disability at 50%. While so doing, the Tribunal has awarded only Rs.1,000/- per percentage of disability, which, as rightly contended by the learned counsel for the appellant is much on the lower side. While the Tribunal has reduced the disability fixed by the Doctor, fixing Rs.1,000/- per percentage of disability is not sustainable and the Tribunal should have awarded Rs.2,000/- per percentage of disability. Accordingly, this Court, taking into consideration the nature of injuries suffered by the claimant and the period of treatment gone and the consequential difficulties which the claimant would have faced on account of such injuries, is inclined to award Rs.2,000/- per percentage of disability. Accordingly, the compensation under the head 'Disability' is enhanced to Rs.1,00,000/- from Rs.50,000/-.

7. As rightly contended by the learned counsel for the appellant, no amount has been awarded under the head loss of enjoyment of amenities. It is seen from the records, that the appellant has underwent multiple surgeries and that he is unable to walk, which has been certified by the doctor. The appellant has been an in-patient for a considerable period of time. Though the Tribunal has recorded all these aspects, however, has not awarded any compensation under the head loss of enjoyment of amenities. In such circumstances, this Court awards a sum of Rs.40,000/- under the head loss of enjoyment of amenities.

8. Though the Tribunal has awarded a sum of Rs.5,000/-, towards transport expenses considering the overall aspect of the matter and keeping in mind the injuries suffered by the claimant and the number of surgeries performed and also the period of treatment as in-patient in the hospital, this Court enhances the transport expenses from Rs.5,000/- to Rs.15,000/-. The compensation awarded under the other heads are confirmed.

9. In the result, this Civil Miscellaneous Appeal is allowed in part enhancing the compensation from Rs. 2,14,800/- to Rs.3,14,800/- along with interest @ 7.5% per annum from the date of claim petition till the date of deposit. However, it is made clear that the claimant is not entitled for interest for the period of delay in filing this appeal

10. The 2nd respondent/Insurance Company is directed to deposit the compensation amount, along with interest, less the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

1.The Motor Accidents Claims Tribunal/Sub Court, Namakkal.

2.The Section Officer, VR Section,
High court, Madras (2 copies)

+1cc to Mr.N.Manokaran, Advocate Sr.No.7927

+1cc to Mr.T.Ravichandran, Advocate Sr.No.7602

C.M.A. No.745 of 2015

GMR(CO)

sm:20.2.2018

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