

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.199 of 2017

Vasudevan

... Appellant / Petitioner

versus

1. A.Anbarasu

2. Bharti Axa General Insurance Co. Ltd.

No.162, Metro Plaza, 2nd Floor,

Anna Salai, Chennai - 2. ... Respondents / Respondents

(R1 remained ex parte before the Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment dated 06.03.2014 made in M.C.O.P.No.128 of 2012 on the file of the Motor Accident Claims Tribunal (III Additional District Court), Poonamallee.

For Appellant : Mr.K.Varadhakamaraj
For R-2 : ***Mr.S.Arunkumar for R2**
R1-Exparte

JUDGMENT

One Vasudevan, aged about 55 years, employed as a Watchman, earning a sum of Rs.5,000/- per month, met with an accident that took place on 02.01.2012 and sustained injuries, in respect of which, he filed a claim petition in M.C.O.P.No.128 of 2012 before the Motor Accident Claims Tribunal (III Additional District Court), Poonamallee, claiming compensation of Rs.2,00,000/-.

2. As against the claim made, the Tribunal, after considering the oral and documentary evidence, has awarded a sum of Rs.90,000/- as compensation along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization. The break-up details of the compensation reads as under:

For 30% disablement	-	Rs. 60,000/-
For pain and suffering, nutritious food and for transportation, etc.	-	Rs. 15,000/-
For loss of income	-	Rs. 15,000/-
Total	-	Rs. 90,000/-

Challenging the quantum of compensation as inadequate, the claimant has filed the present Civil Miscellaneous Appeal.

3. The contention of the learned counsel appearing for the appellant is that having regard to the age of the claimant and having regard to the injuries suffered by the claimant, appropriate compensation has not been awarded and compensation awarded is very meager. It is also pointed out that in respect of permanent disablement, not even multiplier method of quantification has been applied. Further contention is that the compensation should have been quantified at least at the rate of Rs.3,000/- per percentage of disability, when multiplier method of quantification has not been applied.

4. The learned counsel appearing for the second respondent-Insurance Company would submit that it is not a case, where, the multiplier method can be applied, but, the Tribunal has awarded disablement compensation at the rate of Rs.2,000/- per percentage of disability.

5. As rightly contended by the learned counsel for the appellant, because of the age factor, spinal injury would create havoc for the injured and because of the fracture in the spinal cord, he would not be able to do his normal activities and he would be totally dependent upon the family members, therefore, the attendant charges at least should have been considered by the Tribunal and that has not been considered. Therefore, having regard to the nature of the injury, period of treatment and impact of disablement upon his old age, the compensation has to be re-worked and appropriate compensation has to be awarded under appropriate heads and it is awarded under the following heads:

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Loss of income for three months	-	Rs.	15,000/-
Transport	-	Rs.	10,000/-
Extra nourishment	-	Rs.	10,000/-
Damage to cloths	-	Rs.	1,000/-
Loss of enjoyment of amenities	-	Rs.	40,000/-
Attendant charges	-	Rs.	10,000/-
Pain and sufferings	-	Rs.	25,000/-
Disability (Rs.3,000 x 30%)	-	Rs.	90,000/-
Total	-		<u>Rs.2,01,000/-</u>

6. In the result, the Civil Miscellaneous Appeal is allowed, enhancing the award amount from Rs.90,000/- to Rs.2,01,000/-, which is payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. No costs.

7. It is represented that the amount awarded by the Tribunal has already been deposited by the Insurance Company.

8. The Insurance Company is directed to deposit the enhanced amount compensation 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, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimant is permitted to withdraw the same. The claimant shall pay the court fee due, if any.

Sd/-

Asst.Registrar (CS III)

***Corrected order to go
-s/d-**

**Assistant Registrar(CSIII)
dt:17/08/2017**

/true copy/

Sub Asst. Registrar

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To

1. The Motor Accident Claims Tribunal (III Additional District Court), Poonamallee. To be substituted in the place of order despatched on 01/08/2017
2. The Section Officer,
V.R.Section,
High Court, Madras.

+lcc to Mr.K.Varadha Kamaraj, Advocate Sr. 10477

C.M.A.No.199 of 2017

RV(CO)
VR(17/07/2017)
rv(co)
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