

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2017

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A.No.971 of 2016
and C.M.P.No.20771 of 2016
and C.M.P.No.7421 of 2016

The United India Insurance Company Ltd.,
Motor Third Party Claims Office,
Silingi Building, IVth floor,
No.134, Greams Road,
Chennai - 600 006. .. 2nd Respondent/Appellant

/Vs/

1. P. Annamalai ... Petitioner/Ist Respondent
2. M/s.Sethia Finance Pvt.Ltd.,
No.5, Narayana Mudali Lane,
Chennai -79. .. Ist Respondent/2nd Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 24.09.2014 made in M.C.O.P.No.3099 of 2009 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.A. Dhiraviyanathan
For Respondent : M/s.R. Manoranjitham
No.1
For Respondent : No appearance
No.2

JUDGMENT

The injured Annamalai, aged 42 years, working as Assistant Sales Manager at Tamil Nadu Co-operative society, earning a sum of Rs.8,000/- per month, met with an accident on 05.11.2007.

2. Claiming that the injuries suffered in the accident has led to the loss of earning capacity, he has filed the claim petition for compensation claiming a sum of Rs.3,00,000/-. As against the claim made, the tribunal has passed an award for a sum of Rs.3,96,000/- and the break-up details are under;

Disability	:	Rs.	1,10,000.00
Transportation	:	Rs.	40,000.00
Extra Nourishment	:	Rs.	50,000.00
Pain and suffering	:	Rs.	1,00,000.00
Loss of Income	:	Rs.	12,000.00
Attendant Charges	:	Rs.	40,000.00
Damages to clothes	:	Rs.	3,000.00
Loss of amenities	:	Rs.	40,000.00
Medical expenses	:	Rs.	976.00

Total			3,95,976.00

rounded off to Rs.3,96,000/-

3. The learned counsel for the appellant would submit that the award under the head of Transportation at Rs.40,000/-, Extra Nourishment at Rs.50,000/- and pain and suffering at Rs.1,00,000/- are excessive and it needs proportionate reduction.

4. The learned counsel for the claimant would submit that when the doctor has certified the disability at 60%, the tribunal has taken the disablement only at 55% and has awarded compensation at the rate of Rs.2,000/- per percentage and awarded a sum of Rs.1,10,000/- alone towards disablement compensation. In other words, it is contended that loss of earning capacity should have been quantified by adopting multiplier method and that has not been done and it would have been the proper method, when the injured had been employed as an Assistant Sales Manager, which involves extensive travelling.

5. The tribunal has chosen to award disablement compensation finding that the injuries suffered will not result in loss of earning capacity. It is brought on record that the nature of job involves extensive travel. Under such circumstances, the award of disablement at Rs.1,10,000/- cannot be claimed to be excessive. But, Transportation and Extra Nourishment awarded at Rs.40,000/- and Rs.50,000/- respectively are certainly excessive and they are on the higher side. But, those amounts should go to medical expenses as medical expenses has been awarded only at Rs.976/-, just because documents are not filed towards medical expenses.

On account of non-filing of medical bills or on account of want of evidence, medical expenses cannot be declined or it cannot be meagre to the extent of Rs.976/-, that too, when the claimant had suffered fracture, which involved surgery also. Therefore, the amounts awarded under the head of transportation and extra nourishment will be shifted towards the head of medical expenses.

6. For pain and suffering, the tribunal has awarded a sum of Rs.1,00,000/-, which ought to have been awarded at Rs.50,000/- Therefore, the award under the head of pain and suffering is reduced Rs.50,000/-.

7. The over all reduction of compensation is Rs.50,000/-. Thus, the insurance company is liable to pay only a sum of Rs.3,46,000/-. This appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

8. The appellant/Insurance Company is directed to deposit the entire award amount, along with interest at 7.5% per annum from the date of petition till the date of realisation and costs, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. 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. Balance if any shall be withdrawn by the Insurance company.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

sms/kv

To

1. The Motor Accidents Claims Tribunal,
IV Court of Small Causes, Chennai.

2. The Section Officer, VR Section,
High Court, Madras.

+ 1 cc to Mr.A. Dhiraviyanathan Advocate, SR.54928

+ 1 cc to M/s.R. Manoranjitham Advocate, SR.54742

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pvs(co)
nr 05/02/2018