

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.09.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2696 of 2017

S.Karnan

Appellant

/Vs/

1.S.Chinnadurai

2.The New India Assurance Co.Ltd.,
Motor Third Party Cell,
No.46, Moore Street,
Chennai – 600 001.

Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.12.2002 made in M.A.C.T.O.P.No.1062 of 1999 on the file of the Additional District Cum Sessions Judge (II Fast Track Court), Motor Accidents Claims Tribunal, Chennai.

For Appellant : Mr.N.M.Muthurajan

For Respondent : Mr.G.Udayasankar

No.2

JUDGMENT

The claimant/injured, aged 52 years, working as A/C Mechanic earning a sum of Rs.10,000/- per month met with an accident on 20.10.1998 and sustained injuries. Therefore, he filed a claim petition before the Motor Accidents Claims Tribunal in MACTOP No.1062 of 1999 claiming compensation.

2. The Tribunal, on considering the materials placed before it, has quantified the compensation at Rs.86,000/- and the following are the breakup details :-

For Disability	..	Rs.45,000. 00
For Loss of income	..	Rs.24,000 . 00
For Transport Expenses	..	Rs. 2,000 . 00
For Extra Nourishment	..	Rs. 2,000 . 00
For Attender Charges	..	Rs. 3,000 . 00
For Pain and sufferings	..	Rs.10,000 . 00

		Rs.86,000 . 00

Assailing the award as inadequate, the claimant has filed this appeal.

3. The learned counsel for the appellant submits that it is a fit case to apply multiplier method for quantification in order to assess the loss of earning capacity and that has not been done. It is pointed out that the injured has been admitted at M.I.O.T hospital four times as in-patient during the following periods, i.e, from 20.10.1998 to 31.10.1998, 05.11.1998 to 07.11.1998, 25.11.1998 to 10.12.1998 and 04.05.1999 to 05.05.1999.

4. The learned counsel for the 2nd respondent submits that it is a case, where, disablement compensation would be a suitable remedy, there is no scope for loss of earning as there was only a fracture of tibia in the left leg and that pain and suffering at Rs.10,000/- was more than sufficient, considering the money value during the 1998 – 1999.

5. In order to appreciate the contention raised, it is necessary to peruse the evidence available on record. The doctor has spoken about the disablement caused to the claimant and has assessed the same at 45%. The doctor has further deposed that there had been fracture of tibia and external fixation has been done. Even malunion found in the hip had led to restriction in the movement as well as difficulty in discharging day-to-day activities. The Tribunal, accepting the disablement fixed at 45% and adopting percentage method of quantification, fixing Rs.1,000/- per percentage of disability has quantified the compensation at Rs.45,000/-. Though it is contended that it is a fit case for adoption of multiplier method, however, on the basis of the nature of injuries suffered by the claimant and the consequential disability fixed, the Tribunal has rightly adopted the percentage method to quantify the compensation. However, this Court feels that the amount fixed per percentage of disability is on the lower

side. Therefore, considering the nature of injuries suffered, the period of treatment and the impact of the injuries on the day-to-day activities of the claimant, it would be appropriate to fix Rs.2,000/- per percentage of disability. Accordingly, the compensation towards disability stands enhanced to Rs.90,000/= from Rs.45,000/=.

6. Insofar as the compensation awarded towards pain and suffering is concerned, the Tribunal has awarded Rs.10,000/- under the said head. However, this Court, considering the period of hospitalisation and the nature of injuries suffered is of the considered view that a sum of Rs.15,000/- be fixed towards pain and suffering. Accordingly, the compensation under the head pain and suffering is enhanced to Rs.15,000/- from Rs.10,000/-.

7. Insofar as the compensation awarded under the other heads are concerned, this Court, on a perusal of the entire materials available on record, is of the considered view, that the compensation awarded is just and reasonable and does not require any interference. Accordingly, the same are confirmed.

8. In the result, the civil miscellaneous appeal is allowed and the compensation is enhanced by Rs.50,000/- over and above the amount awarded by the Tribunal. Accordingly, the total compensation

is fixed at Rs.1,36,000/=, along with interest at 7.5% p.a. from the date of petition till the date of deposit.

9. The 2nd respondent/Insurance Company is directed to deposit the amount awarded by this Court along with interest at 7.5% per annum from the date of petition till the date of deposit, and costs as quantified by the Tribunal, less the amount, if any, already deposited, to the credit of the claim petition 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 award amount directly to the bank account of the claimant/first respondent through RTGS within a period of two weeks thereafter. The claimant shall pay the requisite court fee, if any, on the enhanced amount, before receiving a copy of this judgment.

सत्यमेव जयते

06.09.2017

Index : Yes/No
Internet : Yes/No
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To

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1. The Additional District Cum Sessions Judge
(II Fast Track Court),
Motor Accidents Claims Tribunal, Chennai.
2. The Section Officer, VR Section,
High Court, Madras.

DR. S.VIMALA, J.

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