

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.289 of 2017

R.Vijayabalan

... Appellant / Claimant

versus

1. K.Rajaram

(Set exparte before Tribunal)

2. The Divisional Manager,

National Insurance Co. Ltd.Divisional Office,

Door No.110, JN Street,

Puducherry - 605 001.

... Respondents/Respondents

(R1 remained ex parte before the Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 04.06.2016 made in M.C.O.P.No.2252 of 2014 on the file of the Motor Accident Claims Tribunal, Special Sub-Judge, Cuddalore.

For Appellant : Ms.B.Kanikkai Arul Mozhi

For R-2 : Mr.J.Chandran

JUDGMENT

R.Vijayabalan, the claimant, aged about 52 years, employed as Contract Labourer at Neyveli Lignite Corporation Limited, Neyveli, earning a sum of Rs.12,000/- per month, met with an accident on 25.05.2014 and sustained multiple grievous injuries and fracture. Hence, he filed a claim petition in M.C.O.P.No.2252 of 2014 before the Motor Accident Claims Tribunal, Special Sub-Judge, Cuddalore, claiming compensation of Rs.10,00,000/-.

2. The Tribunal, after considering oral and documentary evidence, has awarded the compensation of Rs.3,93,377/- along 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 compensation read as under:

Disability (50%)	-	Rs.3,30,000/-
Medical expenses	-	Rs. 3,377/-
Pain and sufferings	-	Rs. 25,000/-
Additional Medical Expenses	-	Rs. 10,000/-
Nutrition	-	Rs. 10,000/-
Transport Expenses	-	Rs. 10,000/-
Loss of personal belongings	-	Rs. 5,000/-

Total	-	Rs.3,93,377/-

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

3. The learned counsel appearing for the appellant submits that when the disability was 50%, no amount has been awarded on the ground of loss of enjoyment of amenities and no attendant charges have been awarded, when the claimant has been hospitalized for nearly a month. Hence, the compensation awarded by the Tribunal has to be enhanced.

4. The learned counsel appearing for the second respondent Insurance Company submit that when the disability was only 50%, the award of compensation for attendant charges is unwarranted and that the amount of compensation awarded by the Tribunal is just and reasonable.

5. In order to appreciate the contentions, it is necessary to consider the nature of injuries, period of treatment and percentage of disability suffered by the claimant.

6. The claimant is stated to be aged about 52 years, a Contract Labourer, earning a sum of Rs.12,000/- per month; even though it is stated that he was earning a sum of Rs.12,000/- per month, the Tribunal has taken the monthly income only at Rs.5,000/-; the claimant has suffered fracture on right hand and the doctor has certified the disability at 50% on the ground that there is no union of the fractured bones and therefore, it is not possible for him to lift any weight; there has been reduction of muscles also; since the injured is a Contract Labourer, this disablement will have serious impact upon his earning capacity. Having regard to the nature of job he was doing, the compensation has to be modified.

7. As rightly contended by the learned counsel for the appellant, no amount has been awarded towards loss of enjoyment of amenities. Similarly, the amount of compensation awarded towards nutrition is also on the lower side. Though the claimant has been hospitalized for a period of one month, however, no compensation has been awarded towards attender charges, which has been rightly pointed out by the learned counsel for the appellant. Further, only a sum of Rs.10,000/- has been awarded under the head additional medical expenses. This Court feels that the injuries suffered by the claimant would require more medical attention and a higher compensation is required under the head additional medical expenses. Considering the nature of injuries suffered, the period of hospitalization and the treatment undergone by the claimant and also taking into account the extent of disability suffered by the claimant, this Court is of the considered opinion that the compensation awarded under various heads require to be enhanced. Accordingly, this Court enhances the compensation awarded under various heads as given below :-

Disability (50%)	-	Rs.3,30,000/-
Medical expenses	-	Rs. 3,377/-
Pain and sufferings	-	Rs. 75,000/-
Additional Medical Expenses	-	Rs. 20,000/-
Nutrition	-	Rs. 30,000/-
Transport Expenses	-	Rs. 25,000/-
Loss of personal belongings	-	Rs. 5,000/-
Loss of enjoyment of amenities	-	Rs. 25,000/-
Attendant charges	-	Rs. 15,000/-
Loss of earning for three months	-	Rs. 15,000/-

Total	-	Rs. 5,43,377/-

8. In the result, the Civil Miscellaneous Appeal is allowed, enhancing the compensation from Rs.3,93,377/- to Rs.5,43,377/- (it is rounded off Rs.5,43,400/-), payable along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. No costs.

9. It is represented that the Insurance Company has already deposited the amount of compensation as awarded by the Tribunal. The Insurance Company is directed to deposit the balance portion of the compensation as enhanced by this Court above along with interest at 7.5% p.a., from the date of claim petition till date of deposit 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 said amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter. The claimant shall pay the necessary court fee towards the enhanced compensation.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ogy/GLN

To

1. The Motor Accident Claims Tribunal,
(Special Sub-Judge), Cuddalore.

+1cc to Mr.R.Sreedhar, Advocate Sr.No.12194

KGK(CO)

sm:10.4.2018

C.M.A.No.289 of 2017