

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

C.M.A.No.2931 of 2017

S.Ramprabhu ... Appellant / claimant
..vs..

1. J.Mohanbabu
2. New India Assurance Company Limited,
Cuddalore - 2, New Town ... Respondents/Respondents

Appeal filed under Section 173 of Motor Vehicles Act 1988, against the judgment and decree, dated 11.08.2009 made in M.C.O.P.No.245 of 2004 on the file of the Motor Accident Claims Tribunal, II Additional Sub Court, Cuddalore.

For Appellant : Mr. SP.Yuvaraj
For Respondents : Mr. J.Chandran, for R-2,
R-1 - Given up

J U D G M E N T

The claimant, as appellant, has filed this Appeal, challenging the quantum of compensation as inadequate, as he claims that he suffered fracture of left thigh bone, knee bone, rib bone and right shoulder bone.

2. The contention of the claimant is that he was in continuous treatment for a period of one year and eight months and medical expenses was running to lakhs and therefore, the award passed is inadequate.

3. The claimant, S.Ramprabhu, was aged 18, at the time of accident and he was a Wireman by profession and earning a sum of Rs.5,000/- per month. This accident had taken place on 31.12.2002. The Tribunal, on a consideration of the oral and documentary evidence, has awarded compensation of Rs.1,79,914/- with the following breakup details:-

Disability (60 x 2000)	-	Rs.1,20,000.00
Medical expenses	-	Rs. 5,614.00
Pain and sufferings	-	Rs. 20,000.00
Transport expenses		
(As per Ex.P-12)	-	Rs. 15,300.00
Attender charges	-	Rs. 5,000.00
Loss of income (3,000 x 3)	-	Rs. 9,000.00
Food and extra nourishment	-	Rs. 5,000.00

		Rs.1,79,914.00

4. The main contention raised by the learned counsel appearing for the appellant / claimant is that it is a fit case for application of multiplier method of quantification especially when the Doctor has certified the disability at 60% and more especially when there is a serious impact in the quality of life, because of the injuries sustained upon the claimant. As the employment of the claimant is Wireman, which involves extensive travelling, climbing and using lot of manual work involving the body, the disablement would have a direct consequence upon the employment. Unfortunately, the claimant had suffered injuries not only in the upper portion of the body, i.e., in the shoulder and the hip, but also in the lower portion of the body, i.e., in the knee and thigh. Therefore, the claimant is facing difficulty in sitting in cross legs, climbing as well as in jumping. In such circumstances, the contention that the claimant is entitled to compensation based upon the multiplier method of quantification cannot be rejected.

5. Even though the Doctor has certified the disability at 60%, which if considered, along with the employment of the claimant, it should be considered as 100%, but the Tribunal has fixed the percentage of disability only at 60%. But, still, the Tribunal has not chosen to adopt the multiplier method of quantification, is the grievance of the claimant.

6. In view of the above reasonings, this Court is of the considered view that this is a fit case to adopt multiplier method of quantification. Hence, fixing the monthly income at Rs.3,000/- and considering the disability to the minimum extent of 30% and adopting the multiplier of 18, the compensation towards disability has to be calculated, which comes to Rs.1,94,400/- (Rs.3,000/- x 12 x 18 x 30%).

7. The medical expenses have been awarded at Rs.5,614/-, which is supported by documents. The loss of income awarded at Rs.9,000/- for a period of three months is also reasonable. Similarly, towards food and extra nourishment and attendant

charges a sum of Rs.5,000/- each, is awarded, which is reasonable and fair. Therefore, no alterations are necessary on that counts.

7.1. Pain and sufferings is enhanced to Rs.30,000/-. Transport expenses is awarded by Rs.5,000/- more.

8. A perusal of the award would disclose that towards future medical expenses no amount has been awarded. The fact remains that the medical expenses are exorbitant nowadays and having regard to the details of the surgery undergone by the injured as well as the number of fractures sustained by the claimant, this Court feels it appropriate to award a sum of Rs.40,000/- towards the future medical expenses.

9. In the result, the total amount of compensation is enhanced from Rs.1,79,914/- to Rs.3,09,314/- and this amount of compensation shall be deposited less the amount already deposited along with interest at 7.5% per annum, from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this judgment. The claimant is not entitled to the interest for the default period. On such deposit being made by the second respondent / Insurance Company, the Tribunal shall transfer the compensation award amount to the Savings Bank Account of the appellant / claimant. The excess court fee shall be deposited by the claimant / appellant before receiving the copy of this judgment.

10. In the result, the Civil Miscellaneous Appeal is partly-allowed. No costs.

Sd/-
Assistant Registrar (CS-viii)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal,
II Additional Sub Court, Cuddalore.

2. The Section Officer, V.R. Section, Madras High Court, Chennai 104

+1cc to Mr.S.P.YUARAJ Advocate, S.R.No. 89107

+1cc to Mr.J.CHANDRAN, Advocate, S.R.No. 88735

C.M.A.No.2931 of 2017

NRI (CO)

TR(22/03/2018)