

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.339 of 2017

P.Saravanan @ Saravanan Abraham ... Appellant/Petitioner
S/o. A. Periyasamy

-Vs.-

1. J.Poorna Chandran
2. M/s.The Oriental Insurance Company Limited
No.69, West Madha Church Road,
Appavoo Towers, 1st Floor,
Royapuram, Chennai -13 ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 19.12.2012 made in M.C.O.P.No. 4226 of 2010 on the file of the Motor Accident Claims Tribunal, (XV Additional Court), Chennai.

For Appellants ... Mr.K.Varadha Kamaraj
For respondents ... Ms.R.Sreevidya

JUDGMENT

The injured in an accident, is the claimant before this Court seeking enhancement of compensation awarded by the Tribunal. The accident occurred on 12.02.2010. The Tribunal has held that the offending vehicle was negligent and the accident was only due to the rash and negligent driving of the first respondent's motor cycle. While awarding the compensation, the Tribunal discussed the injury sustained on the claimant. As per Ex.P2, it is diagnosed as fracture on the right Fibula and injured had been taking treatment only as an out-patient in the General Hospital, Chennai. PW2 Doctor had been examined, who issued the disability certificate. As per the certificate, the disability is assessed at 25%. Other than the said records, there is no document available to claim enhancement of award. The Motor Accident Claims Tribunal had awarded a sum of Rs.45,000/- as compensation with interest 7.5% per annum on the following heads.

Heads	Amount in (Rs.)
Partial permanent disability	25,000/-
Pain and Sufferings	10,000/-
Loss of earnings	10,000/-
Total	45,000/-

The said order is now under challenge in the above appeal.

2. The learned counsel for the second respondent-Insurance Company fairly conceded that Rs.2,000/- per percentage of disability, will have to be awarded on the relevant date of accident. So, applying the said formula, it should have been Rs.50,000/- for 25% disability as assessed by P.W2, which is not challenged.

3. Therefore, this Court is inclined to enhance the award passed by the Tribunal only on the head of partial permanent disability by Rs.25,000/- more and the other heads shall stand confirmed. In the meanwhile, the award of the Tribunal is revised as follows:-

Heads	Amount (in Rs.)
Partial Permanent Disability	50,000/-
Pain and suffering	10,000/-
Loss of earnings	10,000/-
Total	70,000/-

4. According, the Civil Miscellaneous Appeal is partly allowed and the amount awarded by the Tribunal is enhanced from Rs.45,000/- to Rs.70,000/- payable with interest at the rate of 7.5% per annum from the date of claim petition till the date of payment. The second respondent-Insurance Company is directed to deposit the said amount within a period of four weeks from the date of receipt of a copy of this judgment and the claimant is entitled to withdraw the same forthwith.

The claimant is directed to pay the necessary Court fee, if any for the enhanced portion of the award amount. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn

To

1. The XV Additional Judge,
Motor Accident Claims Tribunal,
Chennai.

+lcc to Mr.K. Varadha Kamaraj, Advocate, S.R.No.14521
+lcc to Mr.R. Sree Vidhya, Advocate, S.R.No.14673

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CMA No.339 of 2017

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