

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.03.2017

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.392 of 2017

K.C.Vickram

... Appellant/Petitioner

Vs

1.T.N.Srinivasan

2.ICICI Lombard General Insurance Co. Ltd.,
1st Floor, Arihant Plaza,
No.84/85, Waltax Road,
Chennai-83. ... Respondents/Respondents

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 06.12.2013 made in M.C.O.P.No.5104 of 2010 on the file of the Motor Accident Claims Tribunal, [II Court of Small Causes], Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : Ms.R.Sreevidhya for R2

For R1 : Exparte

J U D G M E N T

The claimant, K.C.Vikram, aged 24 years, a Team Leader in Vodafone, earning a sum of Rs.15,000/- per month, suffered fracture of left wrist and ligament tear in left knee in the accident that took place on 05.02.2010. Therefore, he filed a claim petition in MCOP.No.5104 of 2010 on the file of the Motor Accident Claims Tribunal, [II Court of Small Causes], Chennai, claiming compensation in a sum of Rs.1,00,000/-.

2. As against the claim made, on consideration of oral and documentary evidence, the Tribunal awarded a sum of Rs.59,315/- as compensation and the break up details are as under :

i. Transport expenses	Rs. 1,000/-
ii. Extra nourishment	Rs. 1,000/-
iii. Medical expenses	Rs. 12,315/-
iv. Pain and suffering	Rs. 5,000/-
v. Disability of 20% at the rate of Rs.2,000/- per disability	Rs. 40,000/-

	Rs. 59,315/-

3. Challenging the quantum of compensation awarded by the Tribunal as inadequate, the claimant has preferred this appeal.

4. Learned counsel for the appellant submits that when the Doctor has certified the disability at 45%, fixing disability at 20% without assigning any reason is unjustified and the rate of compensation awarded by the Tribunal is extremely low and deserves to be enhanced.

5. Learned counsel for the 2nd respondent submits that when there is no fracture in the bone and there is only ligament tear, the percentage of disability assessed by the doctor is high and therefore, the disability assessed at 20% by the Tribunal is justifiable and deserves no interference.

6. A perusal of the award reveals that the Tribunal has adopted per percentage method for computing disability compensation. The Tribunal has adopted Rs.2,000/- per percentage of disability and has awarded Rs.40,000/-. However, considering the age of the claimant and the sufferings to which he would have undergone and the impact that the accident would have on his future life, though the injury may only be a ligament tear, this Court is of the opinion that the Tribunal should have awarded Rs.3,000/- per percentage of disability. Accordingly, this Court awards compensation at Rs.3,000/- per percentage of disability, thereby enhancing the compensation awarded under the head disability by Rs.20,000/-.

7. It is evident from the records that the claimant has taken treatment as an out-patient and definitely he would have incurred transportation expenses. However, a perusal of the award reveals that the Tribunal has awarded only Rs.1,000/- towards transportation expenses, which is on the lower side. This Court, accordingly, enhances the award under the head transport expenses to Rs.5,000/-. Similarly, the compensation granted under the head pain and suffering is also on the lower side. This Court feels that the compensation be enhanced by another Rs.3,000/- would be a just and reasonable compensation under the above head. In all, this Court enhances the award by

Rs.27,000/= over and above the compensation awarded by the Tribunal.

8. In the result, the appeal is allowed and the compensation is enhanced from Rs.59,315/- to Rs.86,315/-. However, there shall be no order as to costs.

9. The respondent/Insurance company is directed to deposit the entire award amount as enhanced by this Court above, along with interest and costs as awarded 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 through RTGS within a period of two weeks. The claimant shall pay the court fee due before obtaining copy of the judgment.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

gya/GLN

To

1.The Motor Accident Claims Tribunal,
[II Court of Small Causes],
Chennai.

+ 1 cc to Mr.K.Varadha KamarajAdvocate,SR.13734

+ 1 cc to Ms.R.Sreevidhya Advocate,SR.13960

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nr 13/03/2018

C.M.A.No.392 of 2017

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