

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.02.2017

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.427 of 2017

Veeramuthu

... Appellant/Petitioner

Vs.

1.B.Ramesh

2.The New India Assurance Co.,
Micro Office, Cuddalore Road,
Vridhachalam.

... Respondents/Respondent

Prayer: Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 29.07.2016 made in M.C.O.P.No.413 of 2014 on the file of the Motor Accident Claims Tribunal, [III Additional District and Sessions Judge], Cuddalore at Vridhachalam.

For Appellant : Mr.S.Udhayakumar
For Respondents : Mr.J.Chandran for R2

J U D G M E N T

The injured, Veeramuthu, aged 65 years, working as a mason, earning a sum of Rs.15,000/- per month, suffered injuries in the accident that happened on 03.09.2014. Therefore, he filed a claim petition in M.C.O.P.No.413 of 2014 on the file of the Motor Accident Claims Tribunal, [III Additional District and Sessions Judge], Cuddalore at Vridhachalam, claiming compensation in a sum of Rs.30,00,000/-.

2.The Tribunal, on appreciation of oral and documentary evidence, awarded a sum of Rs.3,09,100/- as compensation. The break up details of compensation are as under :-

i. Loss of income for 4 months	4,500 x 4	Rs. 18,000/-
ii. Loss of future income	4500x12x7x45%	Rs.1,70,100/-
iii. Transportation		Rs. 10,000/-
iv. Extra Nourishment		Rs. 10,000/-
v. Cost of attendant		Rs. 10,000/-
vi. Pain and sufferings		Rs. 25,000/-
vii. Medical expenses		Rs. 21,000/-

viii. Disability of 45% at the rate of Rs.1,000/- per disability	Rs. 45,000/-
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Total Rs.3,09,100/-

3. Aggrieved by the low quantification of compensation, the claimant is before this Court by filing the present appeal seeking enhancement.

4. Learned counsel appearing for the appellant submits that when the disability has been assessed at 45%, the Tribunal ought to have adopted multiplier method and should have not adopted per percentage method for assessing loss of earning capacity. Therefore, on the short ground the appellant seeks enhancement.

5. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the 2nd respondent and perused the materials available in the typed set of documents and the judgment passed by the Tribunal.

6. A perusal of the order shows that the Tribunal, adopting Rs.1,000/- per percentage of disability, has awarded a sum of Rs.45,000/- as compensation. However, a cursory perusal of the injuries sustained by the appellant in the accident coupled with the disablement suffered thereby, though this Court is not inclined to adopt multiplier method, as has been submitted by the learned counsel for the appellant, considering the age of the claimant, but, however, feels that Rs.1,000/- awarded towards per percentage of disability is on the lower side.

7. Considering the injuries sustained and the treatment taken thereon and the disability that is being suffered by the claimant, this Court is of the considered view that Rs.2,000/- should be awarded towards per percentage of disability. Accordingly, the compensation for disability is awarded at Rs.90,000/- (Rs.2000 X 45).

8. This Court is also of the view that the compensation awarded under the head pain and suffering is also on the very lower side. The Tribunal has awarded a sum of Rs.25,000/- towards pain and suffering. However, the nature of injuries coupled with the disability shows that a higher compensation ought to have been awarded for pain and suffering. Accordingly, the compensation under the head pain and suffering is enhanced by Rs.50,000/-. Accordingly, the compensation under the head pain and suffering is fixed at Rs.75,000/-.

9. Insofar as the compensation awarded under the other heads are concerned, this Court feels that the compensation on the other heads are just and reasonable and warrants no interference. Accordingly, the appeal is allowed in part enhancing the compensation from Rs.3,09,100/- to Rs.4,04,100/- with interest at 7.5% per annum from the date of claim petition till date of deposit. However, there shall be no order as to costs.

10.The 2nd respondent/Insurance company is directed to deposit the entire award amount as enhanced by this Court above along with accrued interest and costs as awarded by the Tribunal, less the amount, if any, already deposited, to the credit of the claim petition before the Tribunal, 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 thereafter.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

gya/GLN

To

1.The Motor Accident Claims Tribunal,
[III Additional District and Sessions Judge],
Cuddalore at Vridhachalam.

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

+ 1 cc to MR. J. Chandran, Advocate Sr.12393
+ 1 c to Mr. S. Udayakumar, Advocate Sr.12203

C.M.A.No.427 of 2017

MR(CO)
EU(19/02/2018)

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