

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 24.02.2017
CORAM
THE HON'BLE Dr.JUSTICE S.VIMALA
C.M.A.No.605 of 2017

M.Chinna Kuzhanthai

... Appellant/Petitioner

Vs.

1.S.Tharani Devi

2.The Oriental Insurance Co.Ltd.,
Division Office, Arcot Road,
Jambunala Complex,
Vellore.

... Respondents/Respondents

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 21.11.2012 made in M.C.O.P.No.52 of 2010 on the file of the Motor Accident Claims Tribunal-cum-II Additional District Judge, Ranipet.

For Appellant : Mr.M.Selvam
For Respondents : Mr.R.Chandran for R2

J U D G M E N T

The claimant, who suffered grievous injuries in the accident that took place on 5.5.5007, filed a claim petition in MCOP No.52 of 2010 before the Motor Accident Claims Tribunal, Ranipet, claiming compensation in a sum of Rs.8,00,000/-.

2.The Tribunal, on consideration of the oral and documentary evidence placed before it, quantified the compensation in a sum of Rs.2,30,000/-, the break up of which is as hereunder :-

i. Disability [70%]	Rs. 70,000/-
ii.Pain and suffering	Rs. 50,000/-
iii.Extra Nourishment	Rs. 20,000/-
iv.Transport expenses	Rs. 30,000/-
v. Medical expenses	Rs. 40,000/-
vi.Incidental charges	Rs. 20,000/-

Total

Rs.2,30,000/-

3.Challenging the compensation awarded as inadequate and not proportionate to the injuries sustained, the claimant has preferred the present appeal.

4.The main contention raised by the learned counsel for the appellant is that even though it is a fit case for adopting multiplier, the Tribunal has not adopted the multiplier method. Though the Doctor has assessed the disability at 70%, which has been accepted by the Tribunal, however, curiously, the Tribunal, instead of adopting the multiplier method, has adopted the per percentage method and awarded compensation of Rs.1,000/- per percentage of disability, which is on the very lower side. The claimant has suffered fracture in right leg and he was not able to walk for a period of three years. It is also pointed out that no compensation has been awarded for loss of enjoyment of amenities even though the claimant is aged only 50 years. It is the further contention of the learned counsel that the claimant, an agriculturist, has totally lost his earning for a period of four months, on account of the accident and the injuries suffered thereof, and, therefore, needs to be compensated for the said period.

5.Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent and perused the materials available on record.

6.It is evident from the evidence available on record that no proof towards income has been furnished. The accident has happened in the year 2007 and the claimant is aged 50 years. There is no dispute with regard to the age of the claimant. Therefore, it would be safe to fix the monthly earnings of the claimant at Rs.4,500/-.

7.The claimant has suffered 70% disability, as is certified by the doctor, however, the Tribunal has fixed the disability at 45%. However, a perusal of the award reveals that the Tribunal has awarded Rs.1,000/- per percentage of disability, which, as contended by the learned counsel for the appellant is on the very low side. A perusal of the injuries sustained by the claimant and the period of treatment undergone definitely warrants a higher compensation. Though this Court accepts that the compensation needs to be enhanced, however is not inclined to adopt the multiplier method. On an overall consideration of the evidence, this Court is of the considered view that Rs.3,000/- per percentage of disability would meet the ends of justice. Accordingly, a sum of Rs.1,35,000/- (45 X 3,000/-) is awarded towards disability.

8.Insofar as compensation under the head loss of enjoyment of amenities, it is evident from the records that no amount has been awarded by the Tribunal. Considering the entire factual matrix and the injuries suffered and the period of treatment undergone, this Court awards an amount of Rs.30,000/- under the head loss of enjoyment of amenities. Insofar as compensation

under the head loss of income during the period of treatment is concerned, this Court awards an amount of Rs.15,000/- under the said head.

9.Insofar as the compensation awarded under the other heads are concerned, this Court is of the considered opinion that they are reasonable and does not require any interference at the hands of this Court.

10.In the result, this appeal is allowed in part enhancing the compensation from Rs.2,30,000/- to Rs.3,40,000/-. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

11.The 2nd respondent/Insurance company is directed to deposit the enhanced award amount, as ordered by this Court above, along with interest and costs, 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 amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter. The court fee due shall be paid by the claimant before obtaining copy of the judgment.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gya/GLN

To

1.The Motor Accident Claims Tribunal,
Addl. District Judge, Ranipet.

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

+3 ccs to Mr.M.Selvam Advocate sr 12081
+1 cc to Mr.T.Chandran Advocate sr 12006

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