

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 24.02.2017
CORAM
THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.606 of 2017

T.V.Gunasekaran

...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.53 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 injured T.V.Gunasekaran aged 49 years, a Police Head Constable employed in Police Department, earning a sum of Rs.9,700/-, met with an accident on 05.02.2007. Therefore, the claimant filed a claim petition in M.C.O.P.No.53 of 2010 on the file of the Motor Accident Claims Tribunal-cum-II Additional District Judge, Ranipet, claiming a sum of Rs.15,00,000/- as compensation.

2.The Tribunal, considering the oral and documentary evidence, awarded compensation in a sum of Rs.6,32,800/-, the break up which is as hereunder :-

i. Disability 50%	Rs. 50,000/-
ii. Pain and suffering	Rs. 10,000/-
iii. Extra Nourishment	Rs. 25,000/-
iv. Transport expenses	Rs. 30,000/-
v. Medical expenses	Rs. 1,00,000/-
vi. Loss of income	Rs. 3,52,800/-
vii. Grievous injuries	Rs. 40,000/-
viii. Incidental expenses	Rs. 25,000/-

	Total Rs. 6,32,800/-

3. The main contention raised by the learned counsel for the appellant is that the compensation at Rs. 1,000/- awarded per percentage of disability is on the lower side and it needs to be enhanced. It is further submitted that though the claimant was disabled from attending duty for more than 21 months, no compensation has been awarded towards loss of enjoyment of amenities. Further, the amount awarded under the head pain and suffering is also on the lower side and requires to be enhanced.

4. It is evident from the records that the claimant suffered 50% disability and was not able to attend to his avocation for a period of 21 months. The said fact is supported by Leave Certificate-Ex.P21. Considering the said fact, the Tribunal has quantified the loss of income at Rs. 3,52,800/-. The said quantification is based on records and this Court feels that no interference is called for under the said head. Likewise, the Tribunal, considering the medical bills-Ex.P18, has awarded a sum of Rs. 1,00,000/- towards medical expenses, which also deserves to be confirmed and, accordingly, is confirmed.

5. Though a contention is raised that no amount has been paid towards loss of enjoyment of amenities, however, this Court finds that an amount of Rs. 40,000/- has been awarded under the head grievous injuries which is not permissible. Accordingly, this Court awards the said amount of Rs. 40,000/- under the head loss of enjoyment of amenities.

6. Insofar as the compensation awarded towards pain and suffering is concerned, it is seen that the compensation awarded is on the lower side. Though the claimant was hospitalised for a long period of time and was under constant treatment, however only a meager amount of Rs. 10,000/- has been awarded. However, compensation to the tune of Rs. 25,000/- has been awarded under the head incidental expenses. This Court feels that compensation under the head of incidental expenses cannot be awarded and, accordingly, the said sum of Rs. 25,000/- is diverted towards pain and suffering. Accordingly, while deleting the compensation awarded under the head incidental

expenses, the compensation under the head pain and suffering is enhanced to Rs.35,000/-. The claimant has been hospitalised on and off for more than 21 months, however, no attender charges has been awarded. Therefore, this Court feels that an amount of Rs.25,000/- should be awarded towards attender charges. Accordingly, an amount of Rs.25,000/- is awarded as compensation under the head attender charges.

7. Accordingly, this Court enhances the award to Rs.7,07,800/- under the heads as detailed hereunder :-

1. Disability 50% (50 X 2000)	Rs.1,00,000/-
2. Pain and suffering	Rs. 35,000/-
3. Extra Nourishment	Rs. 25,000/-
4. Transport expenses	Rs. 30,000/-
5. Medical expenses	Rs.1,00,000/-
6. Loss of income	Rs.3,52,800/-
7. Loss of amenities	Rs. 40,000/-
8. Attender Charges	Rs. 25,000/-

Total	Rs.7,07,800/-

8. In the result, the appeal is partly allowed enhancing the compensation awarded from Rs.6,32,800/- to Rs.7,07,800/-. However, there shall be no order as to costs.

9. 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 before obtaining copy of the judgment. The court fee due shall be paid 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
-cum-II Additional District Judge,
Ranipet.

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

+1 cc to Mr.M.Selvam Advocate sr 12468

C.M.A.No.606 of 2017

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