

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.77 of 2017

N.Vasu ... Appellant / Petitioner

versus

1. N.Settu

2. The Divisional Manager,
National Insurance Company Ltd.,
Door No.110 JN Street,
Puducherry - 605 001. ... Respondents / Respondents

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 14.03.2016 in M.C.O.P.No.4301 of 2014 on the file of the Motor Accident Claims Tribunal (Special Sub Judge), Cuddalore.

For Appellant : Mr.R.Sreedhar

For R1 : Mr.P.Gopi Raja

For R2 : Mr.M.Krishnamoorthy

JUDGMENT

One N.Vasu, who was aged 48 years, employed as Special Sub Inspector (Writer in DSP Office), earning a sum of Rs.30,000/- p.m., met with an accident, that took place on 10.10.2014 and sustained injuries, in respect of which, he filed a claim petition in M.C.O.P.No.4301 of 2014 before the Motor Accident Claims Tribunal (Special Sub Judge), Cuddalore, claiming compensation of Rs.10,00,000/-.

2. As against the claim made for Rs.10,00,000/-, the Tribunal has awarded a sum of Rs.99,215/- along with interest at

the rate of 7.5% p.a. from the date of petition till the date of deposit. The break-up details of the compensation read as under:

Disability	-	Rs.60,000/-
Medical expenses	-	Rs. 6,215/-
Pain and sufferings	-	Rs.20,000/-
Extra nourishment	-	Rs. 5,000/-
Transport expenses	-	Rs. 8,000/-
Total	-	<u>Rs.99,215/-</u>

Challenging the award as inadequate, the claimant has filed this Civil Miscellaneous Appeal for enhancement of compensation.

3. The contention of the learned counsel for the appellant is that when the Doctor has certified the disablement at 45%, the Tribunal is not justified in taking the disablement at 20%. Therefore, the award should be enhanced taking into account the percentage of disability at 45%.

4. Towards justifying the contention of the learned counsel for the appellant that the appellant has sustained 45% of disability, the nature of the injury and the opinion given by the doctor are brought to the knowledge of this Court.

4.1. As per the details of the treatment given, there had been a fracture in the ligament of left leg and also blood clot, in respect of which, some muscles have been stitched, due to which, the claimant/appellant faces difficulties while bending his legs.

4.2. The difficulties expressed by the claimant/appellant have also been highlighted in the Judgment of the Tribunal.

4.3. A perusal of the disablement suffered by the claimant/appellant would go to show that the disablement suffered by the claimant will have impact upon his promotional prospects. He may not have a problem in sitting and writing as a writer, but, in case, he is being posted in the Law and Order Division, definitely, he will not be in a position to do his professional duties. On this ground, the Court should have considered the compensation on account of disablement. Considering the difficulties faced by the claimant due to the disablement, the disability should have been fixed at least at 40%. Awarding the disablement compensation at the rate of Rs.3000/- per percentage, the compensation on account of disability would be at Rs.1,20,000/-.

4.4. The Transport Expenses awarded is very low and because of injury over the left leg, the compensation awarded towards transport expenses is enhanced to Rs.12,000/-.

5. Learned counsel appearing for the appellant would contend that the medical expenses have been awarded at Rs.6,215/- which is very low. But, the learned counsel for the respondent would submit that the appellant would have obtained reimbursement of medical expenses. Therefore, the medical expenses are not enhanced.

6. In the result, the Civil Miscellaneous Appeal is allowed, enhancing the compensation from Rs.99,215/- to Rs.1,63,215/-. The enhanced compensation of Rs.64,000/- shall carry interest at the rate of 7.5% from the date of petition till the date of deposit (exclusive of default period, if any).

7. The second respondent Insurance Company is directed to deposit the entire amount of compensation, less the amount already deposited if any, along with interest at the rate of 7.5% from the date of petition till the date of deposit (exclusive of default period, if any), within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the same. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal
(Special Sub Judge), Cuddalore.

Copy to
The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.M.Krishnamoorthy, Advocate Sr.7213
+1cc to Mr.R.Sreedhar, Advocate Sr.7520

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