

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

C.M.A. No.86 of 2017

Chandrasekar

...Appellant

vs

1.Kandasamy

2.The Divisional Manager
M/s. United India Insurance
Co. Ltd., Puducherry.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 21.06.2013 made in MCOP No. 768 of 2009 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Puducherry.

For Appellant : Mr.T. Anantha Sekar

For Respondent-1 : Ex-parte

For Respondent-2 : Mr.C. Paranthaman

JUDGMENT

This is an appeal preferred by the claimant against the award of compensation for the injury sustained by him.

2. As only the enhancement of compensation is sought for in the appeal, the other facts are not gone into. Admittedly, the claimant sustained injuries as per Ex.P.8-wound certificate, he suffered fracture on the knee, disabling him for more than three months. The Doctor had certified that the partial permanent disability is 40%. However, in the cross examination, the Doctor had admitted that he was not the Doctor, who had treated the claimant and he was also not an Orthopaedic qualified and the certificate was issued only two years after the accident occurred. Therefore, the Tribunal had assessed 23% as partial permanent disability. Now, the compensation that may be awarded to the appellant can be seen. By fixing partial permanent disability at 23%, the Tribunal had awarded

Rs.46,000/- at the rate of Rs.2,000/- for each percentage of disability . However, subsequently, the Hon'ble Supreme Court has granted Rs.3,000/- for each percentage. Considering the same, the compensation for partial permanent disability is enhanced from Rs.46,000/- to Rs.69,000/-. On the head of pain and sufferings, the Tribunal had awarded only Rs.10,000/-, which is now enhanced to Rs.20,000/-. The medical bills were produced under Ex.P.16 to the tune of Rs.1,205/-, but the tribunal had awarded only Rs.5,000/- which is not disturbed. So far as the loss of income is concerned, it is stated that the injured was working as a Radiator Mechanic and was earning Rs 10,000/- per month and the same was proved vide Ex.P-14-the salary certificate produced by the Sree Murugan Radiator Service, Puducherry. However, the said document was disbelieved by the Tribunal stating that the author of the same was not examined. In the absence of any evidence regarding the salary of the appellant, the tribunal had fixed the monthly income as Rs.5,000/- and awarded Rs.10,000/- towards the loss of income for two months. However, this court is inclined to enhance the income to Rs.10,000 per month and considering the nature of injury sustained by the claimant, he could not have taken up the job for atleast three months. Therefore, the loss of income is calculated at Rs.10,000/- per month for three months, which would come to Rs.30,000/- The other head of nutritious food is also enhanced to Rs. 10,000/-. The award of Rs. 15,000/- for travelling expenses is confirmed. So in all, the total compensation is enhanced to Rs.1,49,000/- and the same is tabulated below:

Heads	Amount (in Rs.)
Partial Permanent Disability	69,000/-
Pain and suffering	20,000/-
Medical bills	5,000/-
loss of income	30,000/-
Nutritious food	10,000/-
Travelling expenses	15,000/-
Total	1,49,000/- (Rounded off to Rs.1,50,000)

The tribunal had awarded Rs. 91,000/- as against the claim of Rs. 5,00,000/-, but the same is enhanced to Rs.1,49,000/- and rounded off to Rs.1,50,000/- with interest at 7.5% per annum.

4. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the amount awarded by the Tribunal is enhanced

from Rs.91,000/- to Rs.1,49,000/- and rounded off to Rs.1,50,000/- payable with interest at the rate of 7.5% per annum from the date of claim petition till the date of payment. It is stated that the amount awarded by the Tribunal has already been deposited by the Insurance Company and the same has been withdrawn by the Claimant. Now, only the enhanced amount has to be deposited by the second respondent-Insurance Company. The second respondent-Insurance Company is directed to deposit the enhanced portion of Rs.59,000/- (Rs.1,50,000 -Rs.91,000) within a period of four weeks from the date of receipt of a copy of this judgment and the claimant is entitled to withdraw the same forthwith. The claimant is directed to pay the necessary Court fee for the enhanced portion of the award amount. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Principal Sub Judge,
The Motor Accident Claims Tribunal,
Principal Sub Judge, Puducherry.

2.The Record Keeper,
V.R.Section,
High Court, Madras

+1cc to Mr.C. Paranthaman, Advocate Sr. 15056

+1cc to Mr. T. Ananthasikar, Advocate Sr. 15092

CMA. No. 86 of 2017

VSN (CO)
VR(27/03/2017)