IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2017

CORAM

THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

C.M.A. No.1602 of 2013

Muthazhagan .. Appellant

Versus

1 Kumar
2 Divisional Manager,
United India Insurance Co. Ltd.,
No.46 Katpadi Road, Vellore. .. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 to set aside the judgment and decree dated 28.02.2011, in M.A.C.T.O.P.No.720 of 2006, on the file of Motor Accidents Claims Tribunal, Principal Subordinate Judge, Thiruvannamalai.

For Appellant : Mr.P.Terry Chella Raja
For 1st Respondent : Ex-Parte
For 2nd Respondent : Mr.Srinivasan Ramalingam

J U D G M E N T

The claimant is the appellant herein. The appellant filed M.C.O.P.No.720 of 2006, on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Thiruvannamalai. This appeal has been preferred by the appellant / claimant for enhancement of compensation.

2. The 1st respondent is the owner of the offending vehicle and the offending vehicle was insured with the 2nd respondent/Divisional Manager, United India Insurance Co. Ltd.

3. Before the Tribunal, the claimant examined himself as P.W.1 and in support of his case, Dr.K.Ravindran, has been examined as P.W.2. Nine Exhibits were marked. R.W.1, at the instance of the Insurance Company, investigated the claim of the accident and filed Ex.R1 investigation report. The Tribunal held that the accident occurred on 21.08.2005, only due to rash and negligent driving of the offending vehicle. There is no appeal filed by the insurer and insured. Therefore, the only

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question that arises for consideration is, as to whether the compensation awarded by the Tribunal is less.

4. The Tribunal has awarded a total compensation of Rs.1,13,320/- as against the total claim of Rs.5,00,000/-. The claimant was hospitalized and took treatment as in-patient from 23.08.2005 to 29.08.2005 as could be seen from Ex.P3 discharge summary. Initially, he was admitted in a private nursing home at Villivakkam on 21.08.2005. The claimant has given evidence that on account of the accident, he took 15 days medical leave and he could not attend duty for 10 days. The Tribunal has awarded Rs.2,000/- under the head "Transportation", Rs.2,000/- under the head "Extra nourishment" and Rs.2,000/- under the head "attendant charges". Having regard to the present day of cost of living and inflation factor, I am inclined to enhance the amount to Rs.5,000/- under the head of "Transportation", Rs.6,000/- under the head "Extra Nourishment" and Rs.10,000/- under the head "Attendant charges". In view of the fact that the claimant was shifted from private hospital at Villivakkam to General Hospital, Chennai and the period of hospitalization and injury sustained by the claimant, I am inclined to enhance from the amount Rs.10,000/- to the amount to Rs.25,000/- under the "pain and sufferings" head. The Tribunal has awarded Rs.70,000/- under the head "Permanent Disability". Evidence shows that he sustained 30% disability, and hence I am inclined to enhance the amount to Rs.90,000/- at the rate of Rs.3,000/- per percentage of disability under the head "Permanent Disability". The Tribunal is justified in awarding Rs.10,000/- under the head "loss of income" and "Medical Expenses".

6. Taking all the above factors into consideration and having regard to the inflation factor, this Court is of the view that the compensation payable to the appellant/claimant has to be re-assessed as follows:-

S.No.	Heads	Awarded in the Lower Court	Awarded in the High Court
1	Transportation	Rs. 2,000.00	Rs. 5,000.00
2	Extra Nourishment	Rs. 2,000.00	Rs. 6,000.00
3	Attendant charges	Rs. 2,000.00	Rs. 10,000.00
4	Loss of Income	Rs. 10,000.00	Rs. 10,000.00
5	Medical Expenses (bills)	Rs. 17,320.00	Rs. 17,320.00
6	Pain and Sufferings	Rs. 10,000.00	Rs. 25,300.00
7	Permanent Disability	Rs. 70,000.00	Rs. 90,000.00
	Total	Rs.1,13,320.00	Rs.1,63,320.00

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7. In the result, the appeal is partly allowed. The enhanced amount of Rs.1,63,320/- will carry interest at 7.5% per annum from the date of claim petition till the date of deposit. The Insurance Company is directed to deposit the enhanced amount, whereupon the appellant/claimant would be entitled to withdraw the same forthwith. The appellant is directed to pay necessary Court fee, if any, for the enhanced compensation amount. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

jv

To

1.Motor Accidents Claims Tribunal,
Principal Subordinate Judge, Thiruvannamalai.

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

3.The Sub Assistant Registrar
A.E. Section, High Court, Madras.

+1cc to Mr.Srinivasan Ramalingam, Advocate Sr. 11771

+1cc to M/S. M. Malar, Advocate Sr. 11746

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