

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2017

CORAM

THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

CMA.No.1772 of 2012

R.Mohan

...Appellant/Petitioner

Vs.

1. P.Santhoshraj
2. Reliance General Insurance Company Ltd.,
'Heavitree' Unit No.1, 3rd floor,
No.23, Spur Tank Road, Chetpet,
Chennai 31. ...Respondents/Respondents

(The 1st respondent exparte in lower Court, hence notice may be dispensed with)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree made in MCOP No.838 of 2009 on the file of the Motor Accident Claims Tribunal (Vth Fast Track Court) at Chennai dated 05.01.2012

For Appellant : Mr.V.Mohan Choudary
For R1 : Set ex-parte
For R2 : Mr.S.Arunkumar

JUDGMENT

The claimant in M.C.O.P.No.838 of 2009 on the file of Motor Accident Tribunal Claims (Additional Fast Track Court V), Chennai is the appellant herein and he filed the above petition, claiming compensation for the injuries sustained by him in a motor accident on 28.07.2008. The first respondent is the owner of the offending vehicle and the vehicle was insured with the second respondent.

2. The accident occurred on 28.07.2008. The Tribunal awarded Rs.1,25,000/- as against the claim of Rs.2,50,000/-. Admittedly, the vehicle involved at the time of accident was insured with the second respondent. The Tribunal awarded Rs.25,000/- under the head pain and suffering and it allowed Rs.55,000/- under the head purchase of nutritious food and attendar charges and medical expenses. It allowed Rs.45,000/- towards partial

permanent disability. Thus Tribunal awarded a total compensation of Rs.1,25,000/-.

3. The learned counsel for the appellant submitted that the Tribunal ought to have awarded compensation under distinct heads such as transport to hospital, medical expenses, loss of amenities, compensation for pain and suffering and permanent disability.

4. The claimant suffered Grade-II compound segmental fracture left both bones middle third, distal third & upper third, middle third left tibia. He was inpatient in Sri Devi Hospital. It is seen that he was admitted to hospital on 28.07.2008 and he was discharged from hospital on 01.08.2008. PW2 Doctor gave evidence that the claimant suffered 40% of partial permanent disability. He has also given evidence stating that the movement of left knee is restricted upto 90°. However, the Tribunal fixed the partial permanent disability as 30% and awarded a sum of Rs.45,000/- towards partial permanent disability.

5. I have carefully gone through the materials on record. As already pointed out, the petitioner suffered 40% partial permanent disability at the age of 38. He is a Civil Sub Contractor. Considering the evidence on record, this Court is of the view that the compensation has to be re-assessed according to the present day cost of living and the inflation fact is also to be taken into account. Hence the compensation is re-assessed as follows:-

Heads	Amount
Transport of Hospital	Rs.7,500/-
Extra nourishment	Rs.7,500/-
Medical expenses	55,000/-
Loss of amenities	10,000/-
Attendant charges	10,000/-
Compensation for pain and suffering	25,000/-
Compensation for continuing permanent disability if any	70,000/-
Compensation for the loss of earning power	70,000/-
Total	1,85,000/-

6. The enhanced compensation shall carry interest at the rate of 7.5% p.a.

7. In the above circumstances, the Insurance Company is directed to deposit the balance amount of Rs.60,000/- with interest @ 7.5% p.a. from the date of petition till the date of realisation within a period of four weeks from the date of receipt of a copy of this order. It is open to the claimant/appellant to withdraw the compensation amount with interest, as fixed by this Court, after filing a Memo, along with a copy of this order. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount.

8. In the result, the above appeal is partly allowed. Consequently, connected miscellaneous petition is closed. There is no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Motor Accident Claims Tribunal
(Vth Fast Track Court) ,
Chennai
2. The Section Officer,
VR Section, High Court,
Madras.

+2cc to Mr.Mohan Choudary, Advocate, S.R.No.13473
+1cc to Mr.Arun kumar, Advocate, S.R.No.13766

CMA.No.1772 of 2012

VSN(CO)
RS(10/04/2017)