

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.902 of 2017

D.Moorthy .. Appellant/Petitioner
versus

1. The United India Insurance Co. Ltd.,
Motor Third Party Claim Office,
South India Co-op. Building, III Floor,
38, Anna Salai, Chennai - 2.
.. Respondent/2nd Respondent
2. N.S.Ezilarasi
(R2 remained ex parte before
the Tribunal) ..2nd Respondent/1st Respondent

Prayer : This Appeal filed under Section 173 of the Motor Vehicles Act, 1985, against the Judgment and Decree dated 12.06.2002 made in M.C.O.P.No.2504 of 1999 on the file of the Fast Track Court (III Court), Chennai.

For Appellant	:	M/s.R.Manoranjitham
For R1	:	Mr.Srinivasan Ramalingam
R2	:	NDW

JUDGMENT

The petitioner, Moorthy, aged about 25 years, a Driver by profession (Self employment), earning a sum of Rs.3,000/- p.m. met with an accident on 23.08.1998 in which he sustained injuries. Therefore, he filed a claim petition in M.C.O.P.No.2504 of 1999 before the Fast Track Court (III Court), Chennai, claiming compensation in a sum of Rs.1,25,000/-.

2. The Tribunal, on appreciation of oral and documentary evidence, awarded a sum of Rs.7,000/- as compensation, payable with interest at the rate of 9% p.a. from the date of petition till the date of deposit.

3. Challenging the quantum of compensation as inadequate, the claimant has filed this appeal.

4. The learned counsel appearing for the appellant submitted that though the petitioner/appellant has sustained 35% disability, the Tribunal has altogether awarded a sum of Rs.7,000/- as compensation, which is very low; the Tribunal, considering the nature of injury sustained by the petitioner, should have awarded compensation under various head, viz., pain and sufferings, disablement, extra nourishment, attendant charges and transportation and, therefore, the award amount has to be enhanced.

5. As is evident from the medical records, the petitioner had sustained fracture of frontal bone and injuries to nose and head and the doctor, who examined the claimant, has issued disability certificate - Ex.P7, assessing the disability at 25% in respect of fracture over frontal bone and 10% in respect of injury on nose.

6. A perusal of the award would go to show that though the disability assessed at 35% has been accepted by the Tribunal, however, a paltry sum of Rs.7,000/- alone has been awarded as total compensation. The Tribunal has not considered the entire factual matrix along with the injuries sustained by the petitioner, the pain and suffering that he would have underwent due to the accident and the necessity for incurring hospital expenses, etc. The Tribunal ought to have awarded compensation under the various heads, which it has miserably failed to do. Further, the compensation of Rs.7,000/- awarded is on the very low side, considering the nature and extent of injuries suffered by the petitioner. Therefore, this Court is of the opinion that the compensation needs to be enhanced.

7. Due to the fracture sustained on the frontal bone, it is stated by the petitioner that he suffers from headache and giddiness; definitely the claimant would have spent some considerable amount of money towards medical expenses; further, due to the injuries suffered, he would definitely have undergone pain and during the period of treatment, there would definitely have been loss of earnings; he would also have required some assistance during the treatment period. Fixing the monthly income of the claimant at Rs.1,500/=-, for the 35% disability, the compensation is quantified at Rs.52,500/=-. Further, under the other heads, as shown below, this Court restructures the compensation as under :-

Disability (Rs.1,500 x 35%)	-	Rs.52,500/-
Pain and sufferings	-	Rs.10,000/-
Transportation	-	Rs. 5,000/-
Extra nourishment	-	Rs. 5,000/-
Loss of earning (Rs.3,000 x 2)-		Rs. 6,000/-
Attendant charges	-	Rs. 2,000/-

Total	-	Rs.80,500/-

8. In the result, the Civil Miscellaneous Appeal is allowed, enhancing the compensation from Rs.7,000/- to Rs.80,500/- with interest at 7.5% p.a. from the date of claim petition till date of deposit. However, there shall be no order as to costs.

9. The Insurance Company is directed to deposit the enhanced amount of Rs.80,500/-, as quantified by this Court, less the amount, if any, already deposited, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, the Tribunal shall transfer the enhanced amount directly to the claimant's bank account through RTGS within a period of two weeks thereafter. The claimant shall pay the balance court fee, before obtaining copy of the Judgment.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ogy/GLN

TO

THE III JUDGE, FAST TRACK COURT, CHENNAI.

COPY TO

The Section Officer, V.R. Section,
High Court, Madras.(2 copies)

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MP(CO)

TR(08/05/2018)