



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1042 of 2016

K.Kamiah

: Appellant/Petitioner

Vs.

1. K.Saravanan

2. The Branch Manager,
M/s.United India Insurance Company Ltd.,
Paramakudi, Ramnad District. : Respondents/Respondents

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order passed in M.C.O.P.No.2284 of 2004 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate, Madurai) dated 26.10.2009.

For Appellant : Mr.B.A.Muruganantham
Respondents : Mr.A.Ilango for R2
No Appearance for R1

JUDGMENT

The claimant has filed this appeal seeking enhancement of the compensation. The claimant had suffered injuries and the disability was assessed at 30%. The Tribunal reduced the same to 20%. During the relevant time, the compensation payable per percentage disability was Rs.2,000/-. Therefore, the disability compensation alone will come to Rs.40,000/-. The claimant had been an inpatient in the Government Hospital for about two months. He had suffered fractures in the thigh. Therefore, the compensation payable to the appellant will have to be enhanced. It is true that the second respondent had taken a plea that the offending vehicle did not enjoy the policy coverage. Notwithstanding the same, the Tribunal chose to fasten the liability on the second respondent herein. Unfortunately, the second respondent has not chosen to file any appeal challenging fixation of liability on them. Therefore, the finding regarding liability as regards the second respondent has become final.

2.Now, the only question to be gone into is whether the compensation awarded is adequate or not?



3.I am clearly of the view that the compensation awarded to the claimant is not adequate. It has to be reworked as follows:

Disability compensation	: Rs.40,000/-
Attender charges	: Rs.10,000/-
Extra Nourishment	: Rs.10,000/-
Pain and Sufferings	: Rs.15,000/-
Total	: Rs.75,000/-

4.The award dated 26.10.2009 made in M.C.O.P.No.2284 of 2004 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate, Madurai) is modified accordingly.

5.The second respondent is directed to deposit the said compensation amount of Rs.75,000/- with interest at the rate of 7.5% per annum, from the date of petition, till the date of realization and costs, within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit being made, the claimant is permitted to withdraw the said amount, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

6.This Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Madurai.

Copy To:-

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.B.A.MURUGANANTHAM, ADVOCATE IN SR No. 89841

ARUL

TE/SV/SAR-4 : 17/07/2018 : 2P/5C