



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)No.1169 of 2016

C.Vignesh

... Appellant/Petitioner

Vs.

1.N.Sasidharan Nair

2.The Divisional Manager,
Divisional Office,
National Insurance Company Ltd,
Trivandrum - 695 014,
Kerala State.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 19.06.2015 made in MCOP.No.14 of 2014 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankarankoil.

For Appellant

: Mr.V.Sitharanjandas

For Respondents

: Mr.D.Sivaraman for R2

R1-Exparte.

JUDGMENT

Heard the learned counsel on either side.

2.The claimant has filed this appeal seeking enhancement of the compensation awarded to him. The claimant met with an accident on 02.01.2013. He was riding a bicycle when a vehicle belonging to the first respondent and insured with the second respondent dashed against him. The claimant suffered head injury. He was admitted in the Government Hospital on 02.01.2013. He was discharged only on 09.01.2013. The claimant filed MCOP.No.14 of 2014 on the file of the the Motor Accident Claims Tribunal, Sub Court, Sankarankoil seeking compensation to the tune of Rs.6,00,000/-. But, the Tribunal awarded a meagre amount of Rs.63,163/-. Contending that this is inadequate, this appeal has been filed.

3.The learned counsel appearing for the appellant would contend that PW.14 disability certificate has been marked and it shows that the appellant suffered disability to the extent of 62%. His grievance is that no compensation was awarded under that head.

4.I am not in a position to accept the said submission. The Tribunal had gone through the entire materials on record and came to the conclusion that no disability either partial or permanent has been caused to the claimant. I also went through Ex.P10(Tirunelveli Sneha Mind Care Centre Report). It is stated that the claimant is



suffering from depression. Therefore, the Tribunal was justified in coming to the conclusion that the accident has not caused any disability to him.

5. However, I am of the view that the compensation has to be slightly enhanced. The claimant is a Painter by avocation. His specific case is that he is suffering from hypochondria and drowsiness. As a result, he could not attend his avocation for more than three months. I am therefore of the view that a further sum of Rs.27,000/- can be given towards loss of income and a further sum of Rs.10,000/- can be given towards attender charges over and above what was already granted. Thus, the total compensation payable to the claimant is enhanced from Rs.63,163/- to Rs.1,00,163/-.

6. The award dated 19.06.2015 made in MCOP.No.14 of 2014 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankarankoil is modified.

7. The second respondent insurance company is directed to deposit the sum of Rs.1,00,163/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same, by filing proper application before the Tribunal, less the amount already withdrawn by him, if any.

8. This appeal is partly allowed. No costs.

Sd/
Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar

To

1. The Sub Court,
Motor Accident Claims Tribunal, Sub Court, Sankarankoil.

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

+1cc to Mr.D.SIVARAMAN, Advocate, SR.No. 91055

+1cc to Mr.V.SITHARANJANDAS, Advocate, SR.No.90916

CMA (MD) No.1169 of 2016
05.12.2017

SKM

KK/KKR/26.04.2018/SAR-2/2P-6C