

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2018

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.M.A.No. 1727 of 2018

P.M. Venkataraman

.. Appellant

-Vs-

1. G. Marimuthu

2. Reliance General Insurance Co. Ltd.,
Rai's Tower, 2nd Floor,
No.2054, 2nd Avenue
Anna Nagar, Chennai- 40.

.. Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 26.11.2014 made in M.C.O.P No.5941 of 2012 on the file of the Motor Accidents Claims Tribunal, (V Small Causes Court), Chennai.

For Appellant

:: Mr. K. Varadha Kamraj

J U D G M E N T

This appeal has been filed by the injured claimant against the judgment and decree dated 26.11.2014 made in M.C.O.P No.5941 of 2012 on the file of the Motor Accidents Claims Tribunal, (V Small Causes Court), Chennai, seeking for enhancement of compensation.

2. On 18.09.2012 at about 11 a.m, when the claimant was crossing the road at M.K.B Nagar, Vyasarpadi, Chennai, the motor cycle bearing Regn. No. TN 05 AQ 5519, driven by the first respondent, came in a rash and negligent manner and dashed the claimant. Due to the accident, the claimant sustained grievous injuries and was admitted in Apollo Hospital. The claim petition has been filed by the injured claiming a compensation of Rs.6 lakhs from the respondents.

3. The learned counsel for the appellant/ claimant submitted that the Tribunal has failed to grant compensation towards loss of future earning power. According to the

appellant/ claimant, at the time of accident he was earning Rs.7500/- per month. Due to the accident, the appellant sustained fracture on left femur and hip replacement and so he underwent surgery at his old age. The disability assessed by PW-2 Doctor is 60%, which has also been accepted by the Tribunal. Hence, there is loss of future earning power. Whiles, the Tribunal has failed to grant any compensation towards future earning capacity. The Tribunal has erred in awarding a consolidated amount of Rs.40,000/- towards Transport, Extra Nourishment and Damage to Clothes. The amount awarded under other conventional heads are also very low and hence, the claimants are before this court seeking enhancement of compensation.

4. Heard the learned counsel for the appellant/ claimant and perused the material available on records.

5. As submitted by the appellant he was 80 years at the time of accident and he was a tuition teacher and was earning a sum of Rs.7500/- per month. But the claimant failed to produce any evidence to prove his monthly income. However, the Tribunal has rightly awarded a sum of Rs.45,000/- towards loss of income, during the period of treatment. Further, the Tribunal has also rightly awarded Rs.3000/- per percentage, considering 60% disability suffered by the claimant and has granted Rs.1,80,000/- as compensation for partial permanent disability.

6. Considering all these aspects, the total compensation of Rs.5,05,000/- with an interest at 7.5% per annum, awarded by the Tribunal, does not require any enhancement as sought for by the claimant. There is no infirmity or illegality in the award passed by the Tribunal and the appeal is liable to be dismissed

7. The 2nd respondent/ Insurance Company is directed to deposit the entire award amount, with proportionate interest at the rate of 7.5% per annum after deducting the amount that has already been deposited by them, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the entire award amount with the accrued interest.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed at the stage of admission itself and the compensation awarded by the Tribunal is confirmed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

avr

To

The Judge
The Motor Accident Claims Tribunal/
V Small Causes Court, Chennai.

+1cc to Mr.K.Varadhakamaraj, Advocate SR.No.55421

C.M.A. No. 1727 OF 2018

GMV (27/09/2018)



WEB COPY