

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.789 of 2018

M.Maran ... Appellant/Petitioner

Vs.

1.G.Srinivasan

2.The Branch Manager,
United India Insurance Company Ltd.,
IIIrd Party Claims office,
No.134, Greams Road,
Chennai - 6. ... Respondents/Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 30.04.2010 passed in MCOP.No.5177 of 2003 by the Motor Accident Claims Tribunal (VI Court of Small Causes), Chennai.

For Appellant : Mr.T.G.Ravichandran
For Respondents : Mr.D.Bhaskaran (for R2)

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the claimant aggrieved over the award of Rs.5,21,500/- passed by the learned Motor Accident Claims Tribunal (VI Court of Small Causes), Chennai for the injuries sustained by him in the accident which occurred on 31.10.2003 at about 16.10 hrs. while he was working and clearing the ties of the rope in the lorry which was caused accident belonging to the 1st respondent and insured with the 2nd respondent, driven in a rash and negligent manner.

2.I heard Mr.T.G.Ravichandran, learned counsel for the appellant and Mr.D.Bhaskaran, learned counsel for the respondent and perused the entire materials available on record.

3.The only issue is with regard to the quantum of compensation awarded by the Tribunal since the claimant alone.

4.The learned counsel for the appellant/claimant contends

that the Tribunal awarded very meager amount as compensation. The permanent disability, future prospects and other aspects were not considered properly by the Tribunal, the appellant has also filed CMP.No.17702 of 2018 prayed for enhancement of claim amount before this Court. Hence, the appellant seeks enhancement of the award amount by entertaining the appeal.

5.Per contra, the learned counsel for the 2nd respondent/Insurance Company contended that the Tribunal without appreciating the evidence properly wrongly awarded huge amount as compensation and the same is unsustainable. Thus the 2nd respondent seeks dismissal of this appeal.

6.The claimant suffered crush injury in his left leg, fracture left middle shaft femur with femora vessels injury and left lower limb was amputated above middle thigh. The disability sustained by the claimant was assessed by the Government Institute of Rehabilitation Medicine whereby 80% physical impairment was assessed and Ex.P5 is the Disability Certificate issued by the Government Institute of Rehabilitation Medicine Ex.P4 is A.R.copy issued by the Appollo Hospital, the Ex.P6 Discharge summary issued by Apollo Hospital where the claimant was treated, which reveals the nature of injuries suffered by the claimant. The Ex.P8 the disability certificate was issued by the PW3. Therefore, based on the evidence of witness and the other medical records namely, Exs.P4 to P6 and Ex.P8 the Tribunal rightly determined the disability at 80% and based on the said oral and documentary evidence, the Tribunal rightly fixed the monthly income to Rs.5,000/- of the case, but failed to consider the future prospect of 40% an amount of Rs.2,000/- and wrongly deduct 1/3 of salary towards personal expense of the claimant. Though the claimant sustained 80% permanent disability as well as so many injuries the petitioner is not in a position to lead normal life and he cannot do his work as Technical Labour and he lost his job. Hence, 40% future prospects is necessarily to be added. Since the claimant is injured, so no question of deductions of personal expense. Accordingly, the loss of income to the claimant is as under:-

Therefore, loss of income X Disability X yearly income X Multiplier 80% X Rs.84,000/- X 15 = Rs.10,08,000/- the sum of Rs.35,000/- is awarded towards loss of income in treatment period, the sum of Rs.15,000/- awarded towards attender charges, the sum of Rs.3,000/- towards transport charges enhanced to Rs.10,000/-, the sum of Rs.3,000/- towards Extra nourishment is low and the same as enhanced to Rs.15,000/-, the sum of Rs.500/- towards damage to clothing is low and the same is enhanced to Rs.2,000/-. The sum of Rs.35,000/- awarded towards pain and suffering is low and the same was enhanced to Rs.1,00,000/-, the sum of Rs.25,000/- is awarded for medical expenses, the sum of Rs.50,000/- awarded towards loss of amenities. Hence, the

awarded of Rs.5,21,500/- granted by the Tribunal is enhanced to Rs.12,60,000/-. The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The appellants/claimants are directed to pay additional Court fee. In view of the above modified award amount, the 2nd respondent/Insurance Company is directed to deposit the award amount, less the amount, if any already deposited along with accrued interest within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the amount awarded as above by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursed of the amount as stated supra on the filing of such application to the personal savings bank account of the appellant through RTGS/NEFT system, the CMP.No.17702 of 2018 prayed for enhancement is allowed. In other aspects the award of the Tribunal is confirmed. The appellant is directed to pay the deficit court fee within a period of four weeks from the date of receipt of the copy of this judgment.

7.In the result, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

vs

To

1.The VI Judge,
The Motor Accident Claims Tribunal
Chennai.

2.The Section Officer,
VR Section, High Court,
Madras 104.

+1cc to Mr.D.Baskar, Advocate, S.R.No. 70394
+1cc to Mr.T.G.Ravichandran, Advocate, S.R.No. 70020

C.M.A.No.789 of 2018

KK(CO)
GN(20/03/2019)