



WEB COPY

N IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2018

CORAM :

THE HONOURABLE Mr.JUSTICE ABDUL QUDDHOSE

C.M.A.No.693 of 2008

Mohamed Yassin

... Appellant/Claimant

Vs.

1. M/s.Hindustan Plastic (P) Ltd.,
21, Santhi Nagar,
Puducherry.

2. The Divisional Manager,
The New India Assurance Co. Ltd.,
Jawaharlal Nehru Street,
Pondicherry.

... Respondents/Respondents

Prayer:- Appeal is filed under Section 173(1) of Motor Vehicles Act, 1988, against the Judgment and Decree dated 15.03.2007 made in MACTOP. No.321 of 1997 on the file of the Motor Accident Claims Tribunal (II Additional District Court), Villupuram.

For Appellant	: Mr.S.Kalyana Raman
For R1	: No appearance
For R2	: Mr.N.Vijayaraghavan

J U D G M E N T

The instant appeal has been filed seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal (II Additional District Judge), Villupuram by its Award dated 15.03.2007 in MACTOP No.321 of 1997.

2. The brief facts leading to the instant appeal is as follows :

The appellant was working at Villupuram and was earning monthly salary of Rs.1,700/-. On 22.02.1996, he met with an accident caused by the vehicle insured with the second respondent. Before the Tribunal, the appellant had made a claim of Rs.75,000/- on account the injuries suffered by him, claiming 25% disability due to the accident. The Tribunal has awarded a sum of Rs.25,000/- together with interest and costs in favour of



the appellant. Aggrieved by the award of the Tribunal, the instant appeal has been filed by the appellant seeking enhancement of compensation.

3. Heard Mr.S.Kalyana Raman, learned counsel for the appellant and Mr.N.Vijayaraghavan, learned counsel for the second respondent.

4. According to the learned counsel for the appellant, the compensation awarded by the Tribunal is a meagre one, not commensurate with the actual loss suffered by him due to the accident. According to the learned counsel, even though the disability certificate was produced to establish that 25% disability was suffered by the appellant on account of the accident, the Tribunal has awarded compensation fixing the disability only at 10% instead of 25%. Therefore, according to the learned counsel for the appellant, the compensation should be enhanced as prayed for in this appeal.

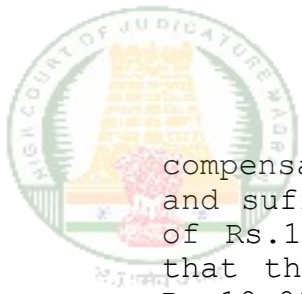
5. Per contra, the learned counsel for the second respondent/ Insurance Company submits that the compensation awarded to the appellant is in accordance with law. The appellant has not suffered any fracture excepting for crushes in the head, shoulder and therefore, the findings of the Tribunal that only 10% disability was suffered is in accordance with the settled principles of law. According to the learned counsel for the second respondent, the Doctor who treated the appellant was not examined as a witness.

6. This Court after having considered the materials available on record and after having perused the award and after hearing the submissions of the respective counsels, observes the following :

a) The appellant had filed Disability Certificate to prove that 25% disability was suffered by him and no contra evidence has been produced before the Tribunal by the second respondent to disprove the percentage of the disability suffered by the appellant.

b) The period of hospitalization from 22.02.1996 to 02.03.1996 of the appellant is also not disputed by the second respondent/Insurance Company.

7. Considering the above observations recorded by this Court, the disability suffered by the appellant which has not been disproved by the second respondent/Insurance Company by any contra evidence, and considering the period of hospitalisation of the appellant, this Court is of the considered view that the compensation awarded by the Tribunal is meagre and inadequate one and it has to be enhanced. If the compensation is calculated at Rs.1,000/- per percentage of disability, the



compensation would have been Rs.25,000/-. Similarly, for pain and suffering, the compensation awarded by the Tribunal was only of Rs.10,000/-. Whereas, this Court is of the considered view that the enhancement has to be fixed at Rs.20,000/- instead of Rs.10,000/-. In so far as the compensation granted under the other heads, the findings of the Tribunal are perfectly in order and cannot be interfered with by this Court. Therefore the total compensation payable to the Appellant is Rs.35,000/- instead of Rs.25,000/- awarded by the Tribunal.

8. Accordingly, award dated 15.03.2007 passed by the Motor Accident Claims Tribunal (II Additional District Judge), Villupuram in MACTOP No.321 of 1997 is hereby modified by directing the second respondent to deposit the enhanced amount of Rs.10,000/-(35,000-25,000) together with interest at the rate of 7.5% p.a. on Rs.10,000/- from the date of claim till date of deposit within four weeks from the date of receipt of a copy of this order.

9. With the above directions, this Civil Miscellaneous Appeal is disposed of.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

LPP/nl

To

1. The Presiding Officer,
Motor Accident Claims Tribunal (Sub Court),
II Additional District Court, Villupuram.

Copy To

The Section Officer,
VR Section, High Court,
Madras-104 (2 Copies)

+1cc to Mr.S.Kalyana Raman, Advocate, S.R.No.56005

C.M.A.No.693 of 2008

VGII(Co)
CS/03/12/2018