



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.488 of 2014

WEB COPY

G.Narayanasamy

... Appellant / Claimant

Vs.

The Superintendent of Police,
District Police Office,
Moondrumavadi,
Madurai -2.

... Respondent / Respondent

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the award made in M.C.O.P.No.633 of 2013 on the file of Motor Accident Claims Tribunal / Special Subordinate Court, Madurai, dated 14.03.2014.

For appellant

: Mr.C.Godwin

For respondent

: Mr.C.Ramar,
Addl. Government Pleader

JUDGMENT

Heard the learned counsel appearing for the appellant / Claimant and the learned counsel appearing for the respondent.

2. It is a case of injury. The manner of the accident is not in dispute. The total compensation awarded by the Tribunal is Rs.1,90,200/-. This appeal has been filed by the appellant / claimant seeking to enhance the award passed by the Tribunal.

3. The learned counsel appearing for the appellant / claimant submitted that the Tribunal has erroneously awarded a sum of Rs.2,000/- per percentage of disability and by relying upon the decision of the Hon'ble Supreme Court in Vimal Kanwar Vs. Kishore Dan, reported in 2013 (1) TN MAC 641 (SC), he requested this Court to award Rs.3,000/- per percentage of disability. He further submitted that the award passed by the Tribunal under the other heads are also on the lower side and therefore, he requested this Court to enhance the award passed by the Tribunal under the other heads also.

4. The learned Additional Government Pleader appearing for the respondent would submit that the Tribunal has already excessively awarded on all the heads and therefore, the same need not be interfered with. Thus, he prayed to dismiss the appeal confirming the award passed by the Tribunal.

5. It is seen from the record that at the time of the accident, the appellant was working as Head Constable in the Tamil Nadu Police Service. While he was traveling in a Police Jeep on patrol duty,



the driver of the jeep lost control of the jeep and the jeep went to the left side of the road and fell into a pit, due to which the appellant has sustained grievous injuries and fractures on right humerus and on right glenoid cavity. He underwent surgery by fixing plate and screw for the fracture on his right humerus. The doctor has assessed disability as 39% of partial permanent disability. Considering the nature of the injury and the evidence of the doctor, the Tribunal has taken only 33% as partial permanent disability. As rightly stated by the learned counsel for the claimant, the Tribunal has awarded only Rs.2,000/- per percentage of disability. As per the decision of the Hon'ble Supreme Court in Vimal Kanwar case, cited supra, the claimant is entitled to get Rs.3,000/- per percentage of disability and accordingly, the award passed by the Tribunal under the head of partial permanent disability is enhanced from Rs.66,000/- to Rs.99,000/-.

6. The Tribunal has awarded a sum of Rs.5,000/- towards extra nourishment and Rs.10,000/- towards pain and sufferings. Considering the nature of the injuries sustained by the claimant and the nature of the treatment undergone by the claimant, this Court is of the view that the ends of justice would be met, if the award passed under the heads of extra nourishment and pain and sufferings are enhanced to Rs.10,000/- and Rs.30,000/- respectively. Accordingly, the amount award by the Tribunal under the head of extra nourishment is enhanced from Rs.5,000/- to Rs.10,000/- and pain and sufferings is enhanced from Rs.10,000/- to Rs.30,000/-. So far as the award passed by the Tribunal under the other heads are concerned, this Court is not inclined to interfere with the same as the same are reasonably awarded. Thus, the total compensation comes to Rs.2,48,200/-.

7. In view of the above, the award passed by the Tribunal is enhanced from Rs.1,90,200/- to Rs.2,48,200/-. The respondent is directed to pay the entire award amount ie., Rs.2,48,200/- with 7.5% interest from the date of petition till the date of realisation. The respondent is directed to deposit the entire award amount, less the amount already deposited, with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment and on such deposit being made, the claimant is permitted to withdraw the entire award amount with accrued interest and costs without filing any formal petition before the Tribunal.

8. This Civil Miscellaneous Appeal is accordingly partly allowed. No costs.

Sd/

Assistant Registrar (CS-II)

/True copy/



To

1.The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Madurai.

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

+1cc to Mr.C.Godwin, Advocate, SR.No.71784

+1cc to M/s.Special Government Pleader,SR.No.71926

C.M.A (MD) .No.488 of 2014
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