



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.1885 of 2013

WEB COPY

Velmurugan

... Appellant/Petitioner

Vs.

1. P & C Construction (P) Ltd.,
P & C Towers,
No.16, Perunthurai Road,
Erode.

2. National Insurance Co. Ltd.,
Through its Branch Manager,
No.76, Thiruvengadasamy Chetti Street,
Erode - 638 001.

... Respondents/ Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in MCOP No.226 of 2011 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Tirunelveli, dated 22.04.2013.

For Appellants : Mr.T.Selvakumaran
For Respondents : Mr.B.Saravanan - for R1
Mr.S.Srinivasa Raghavan - for R2

JUDGMENT

Assailing over the judgment and decree passed by the learned Principal Subordinate Judge, Motor Accident Claims Tribunal, Tirunelveli, in M.C.O.P.No.226 of 2011, dated 22.04.2013, the present civil miscellaneous appeal has been filed.

2. Heard the learned Counsel appearing for the respective parties and perused the records carefully.

3. It is a case of injury and the claimant/injured, being dissatisfied with the compensation of Rs.1,64,744/- awarded by the tribunal, is before this Court, seeking enhancement. According to the appellant/claimant, due to accident he sustained crush injury on his left leg ankle front portion, which was later amputated. His disability was assessed as 40%. Though, the tribunal has taken 40% disability, but has given Rs.2,000/- per percentage of disability and awarded only a meagre sum and therefore, he prays for enhancement. It is his further case that the tribunal ought to have awarded substantial amount towards extra nourishment, transportation and pain and sufferings, loss of income for treatment period, however, a meagre sum was awarded under these heads.



4. Admittedly, the age of the claimant at the time of accident was 21 years and he was working as a driver and coolie. It is also seen that due to the accident, the appellant's / claimant's left leg foot was amputated and also he sustained grievous injuries all over the body. The injuries as well as amputation sustained by the appellant/claimant were admitted in the Doctor's evidence, where the appellant's/claimant's disability was assessed as 40%.

5. Because of amputation of the left leg, the appellant/claimant was not able to walk without the help of others or stick and he has been put to a condition where he will not be able to do the coolie work and driving also, thenceforth. Therefore, for the entire future of his life, he has to live with these pains and sufferings, both physically and mentally. Hence, the appellant/claimant came before this Court seeking enhancement of compensation of a sum of Rs.2,50,000/-.

6. It is a simple math that by fixing Rs.3,000/- per percentage of disability as per the latest decisions and also enhancing the compensation towards extra nourishment, transportation and pain and sufferings, loss of income for treatment period, the overall award will be on the higher side. However, the claimant, before this Court, restricted his claim for a sum of Rs.2,50,000/-, which is reasonable and the learned Counsel for the second respondent has no serious objection for enhancing the compensation of Rs.2,50,000/-.

7. In view of the above, I am not inclined to go into merits of the case, since the learned Counsel for the second respondent has stated that the claim of the appellant /claimant is reasonable. Accordingly the CMA is allowed. Rate of interest at the rate of 7.5% per annum is sustained.

8. In such a view of the matter, this civil miscellaneous appeal is allowed and

- the compensation awarded by the tribunal is enhanced and the total award amount is fixed at Rs.4,14,744/- [Rs.1,64,744/- awarded by the tribunal + Rs.2,50,000/- enhanced by this Court].
- The respondents are directed to deposit a sum of Rs.4,14,744/- [Rupees Four Lakhs Fourteen Thousand Seven Hundred and Forty four only] towards compensation, with interest @ 7.5% per annum from the date of claim petition, till the date of deposit and costs, excluding the sum already deposited, if any, within a period of eight weeks from the date of receipt of this judgment.
- In other respects, the award stands confirmed.
- On such deposit, the appellant/claimant is permitted to



withdraw the entire amount with accrued interests and costs, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

- There shall be no order as to costs.

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Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

The Principal Sub Judge,
Principal Sub Court,
(Motor Accident Claims Tribunal),
Tirunelveli.

Copy to:

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

+1cc to Mr.T.Selvakumaran, Advocate SR.No.68715
+1cc to Mr.B.Saravanan, Advocate SR.No.69029
+1cc to Mr.S.Srinivasa Raghavan, Advocate SR.No.68745

Rm

MK/SKN/SAR 4/09.08.2018/3P/7C

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