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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1190 of 2008

J.Andal

.. Appellant/Petitioner

Vs.

1. Krishna Hardware,
No.8/1, Manali New Town,
Chennai 600 103.
2. The National Insurance Co.Ltd.,
No.66, Grems Road,
Chennai 600 006.

.. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 25.09.2003 made in MCOP No.2025 of 2000 on the file of the Motor Accident Claims Tribunal, at Chennai, Additional District Judge, (Fast Track Court-V), Chennai.

For Appellant : Mr.A.Shanmugaraj

For R-1 : Unserved

For R-2 : Mr.J.Chandran

JUDGMENT

As against the claim made for a sum of Rs.1,00,000/-, the Tribunal has awarded a sum of Rs.30,000/-. As against which, this Civil Miscellaneous Appeal is preferred by the claimant/appellant.

2. The factum of accident was not under dispute. The appellant/claimant/J.Andal, aged 50, a Vegetable Vendor, met with an accident on 04.10.1999 and sustained grievous injuries.

3. Heard both sides.

4. The learned counsel appearing for the appellant/claimant submitted that while awarding compensation under the head "loss of income," the Tribunal ought to have considered the disability to the tune of 40% in the absence of any contra evidence. He further submitted that the Tribunal failed to award any amount towards transport to hospital and extra nourishment.

5. The learned counsel for the second respondent / Insurance Company submitted that the total compensation awarded by the Claims Tribunal is based on evidence available on record and hence no interference is called for.

6. An analysis of the award of the Tribunal would disclose that it has discussed about the evidence of Doctor. The Doctor has spoken about the head and facial injuries on the



claimant/appellant and assessed the disability at 40%. Two things to be noted, at this stage, are that with the said 40% disability, the claimant/appellant has to lead his entire life and there is no contra evidence adduced by the respondents to show that the claimant has not suffered this 40% disability due to the accident. Hence, this Court is of the view that the Tribunal ought to have taken the disability percentage at 40% itself.

7. Added to the above, the claimant herself examined before the Tribunal and stated about the narration of events. Even in the cross examination, she has stated that she was taking treatment on the date of cross-examination also. Exs.P-8 and P-9 X-rays also support the case of the claimant / appellant in total. Hence it cannot be contented that the injuries are simple in nature. Further, except insurance policy, no other document was produced by the respondents to prove their claim.

8. In view of the above reasonings, the award passed by the claims Tribunal needs significant enhancement. Hence, considering the nature of injury, period of treatment, weightage of evidence and settled principles of law on the issue, the quantum of compensation awarded by the Tribunal has to be re-structured.

9. The breakup details of the restructured compensation are thus:-

Loss of treatment period	-	Rs. 6,000
Pain and sufferings	-	Rs.10,000
Permanent disability	-	Rs.20,000
Transport Hospital	-	Rs. 5,000
Loss of amenities	-	Rs.20,000
Attender charges	-	Rs. 5,000

Total	-	Rs.66,000

10. This Court is of the view that the above compensation amount would be the just compensation payable to the claimant.

11. In the result, the Civil Miscellaneous Appeal is partly-allowed by enhancing the quantum of compensation awarded by the Tribunal from Rs.30,000/- to Rs.66,000/-. No costs.

12. At this juncture, the learned counsel for the second respondent submitted that the Insurance Company cannot be saddled with interest from the date of petition at the rate of 9% per annum.

13. The said submission is taken on record. As a normal course and as conventional practice, interest at the rate of 7.5% per annum is being granted for all awards nowadays. Hence, this Court is of the view that the same yardstick may be followed in this appeal also as an uniformity. Hence, the interest on the award amount is fixed at the rate of 7.5%, instead of 9% per annum as awarded by the Tribunal.



14. The second respondent/Insurance Company is directed to deposit the enhanced compensation amount Viz., Rs.66,000/- at the rate of 7.5% per annum from the date of petition till the date deposit less the amount already deposited if any, within a period four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the said amount to the Savings Bank Account of the appellant/claimant herein, within one week thereafter, through RTGS.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal, at Chennai,
Additional District Judge, (Fast Track Court-V), Chennai.

Copy to : The Section Officer, V.R. Section
High Court of Madras.

+1 cc to M/s.A.Shanmugaraj, Advocate Sr.No. 55166

AKM/ 30.08.19/ 3P-4C /

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