

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1467 of 2015

S.Palani .. Appellant / Petitioner

Vs.

1. I.Selvakumar

2. ICICI Lombard G1 Insurance Co.,
Chotabhai Towers,
No.140, Nungambakkam High Road,
Chennai 600 006. .. Respondents / Respondents

(R1 remained exparte before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 13.01.2015, made in M.C.O.P.No.6061 of 2012, on the file of the II Judge, Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.P.T.Salim Fathima
for M/s.M.Swamikkannu

For R2 : Mr.K.K.Ramakrishnan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant, seeking enhancement of the compensation granted by the Tribunal in the award dated 13.01.2015, made in M.C.O.P.No.6061 of 2012, on the file of the II Judge, Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

2.The appellant/claimant filed M.C.O.P.No.6061 of 2012, on the file of the II Judge, Court of Small Causes, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.46,00,000/- as compensation for the injuries sustained by him in the accident that took place on 22.11.2012.

3.The learned counsel appearing for the appellant/claimant contended that the appellant was aged 32 years at the time of

accident and was working as a carpenter and earning a sum of Rs.20,000/- to Rs.25,000/- per month. The Tribunal erred in fixing the monthly income of the appellant at Rs.10,000/- per month. The Doctor has certified that the appellant suffered 40% disability. The Tribunal ought to have awarded compensation for disability. In addition to the compensation for loss of earning capacity, the Tribunal ought to have awarded compensation for disability separately. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of the same.

4.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that P.W.2-Doctor has certified that appellant suffered 40% disability due to the injuries sustained by him in the accident. The Tribunal accepting the same and considering the nature of work done by the appellant, adopted multiplier method and granted a sum of Rs.7,20,000/- for disability and loss of earning power. The appellant has not produced any material to substantiate his claim that the Tribunal ought to have awarded compensation for 100% disability. The Tribunal has considered the entire materials on record and awarded compensation. The appellants are not entitled for any enhancement and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant as well as the 2nd respondent-Insurance Company and perused the materials available on record.

6.The learned counsel appearing for the appellant contended that the appellant was working as carpenter and was earning a sum of Rs.20,000/- to Rs.25,000/- per month at the time of accident. From the award of the Tribunal, it is seen that the appellant has not produced any documents with regard to his income. In view of the same, the Tribunal has fixed the notional income of the appellant at Rs.10,000/- per month. The accident is of the year 2012 and the amount so fixed by the Tribunal is proper. As rightly contended by the learned counsel appearing for the 2nd respondent-Insurance Company, the appellant has not produced any material for granting compensation for 100% disability. The Tribunal accepting the disability certificate produced by the appellant, awarded compensation of Rs.7,20,000/-, by adopting the multiplier method for loss of earning capacity and disability. Considering the nature of avocation of the appellant, the Tribunal also awarded Rs.90,000/- towards loss of income for 9 months. In view of awarding compensation by applying the multiplier method and

granting a sum of Rs.90,000/- for loss of income, the appellant is not entitled for more compensation for 40% disability, as the amount awarded is not meagre. There is no reason to modify the said award, warranting interference by this Court.

7. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.9,96,000/- awarded by the Tribunal as compensation to the appellant/claimant is confirmed. The 2nd respondent-Insurance Company is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment at the first instance and recover the same from the 1st respondent. On such deposit, the appellant/claimants is directed to withdraw the award amount, along with interest and costs, after adjusting the amount already withdrawn, if any, by making necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

gsa

To

1. ICICI Lombard GI Insurance Co.,
Chotabhai Towers,
No.140, Nungambakkam High Road,
Chennai 600 006.
2. The II Judge,
Court of Small Causes,
(Motor Accident Claims Tribunal), Chennai.
3. The Section Officer,
VR Section, High Court, Madras.

+1 cc to M/s.Swamikkannu, Advocate, S.R.No.7098

VSN-II (CO)
SSM(11/06/2019)

C.M.A.No. 1467 of 2015