



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.1881 OF 2011

(Through Video Conferencing)

N.Vinoth Khandailwal,

... Appellant/Petitioner

.Vs.

1. G.Kumar

2. The United India Insurance Co. Ltd.,
No.134, Greems Road,
4th Floor, Silingi Building, HUB,
Chennai - 6.

... Respondents/Respondents

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.4152 of 2003 dated 21.04.2008 on the file of the Additional District Judge, Fast Track Court - IV, Chennai/Motor Accident Claims Tribunal, Chennai.

For Appellant : M/s.Anand & Surya

R1 : Exparte

For R2 : Mr.D.Bhaskaran

J U D G M E N T

With consent of both the learned counsel for the appellant and the learned counsel for the 2nd respondent, this Civil Miscellaneous Appeal is taken up for final disposal.

2. This Civil Miscellaneous Appeal has been filed by claimant against the impugned Judgment and Decree dated 21.04.2008 passed by the Additional District Judge, Additional District and Sessions Court, (Fast Track Court-IV), Chennai - 1 in M.C.O.P.No.4152 of 2003.



3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.50,000/- together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit, to the appellant/claimant.

4. Aggrieved by the said compensation, the appellant/claimant has filed this Civil Miscellaneous Appeal to enhance the amount of compensation.

5. It is submitted by the learned counsel for the appellant that the appellant/claimant had suffered 40% disability on account of borne fracture in his right leg and he had taken treatment in Stanly Government Hospital from 03.07.2003 to 18.07.2003 as in-patient and thereafter, he had taken natural treatment in Puttur. According to the appellant/claimant, though disability was assessed at 40% by the P.W.2 in Exhibit P10 Disability Certificate which was also confirmed in P.W.2's deposition, while awarding the compensation, the Tribunal has considered the disability at 30%. It is therefore submitted that the appellant is entitled to higher compensation.

6. Per contra, the learned counsel for the 2nd respondent Insurance Company submits that the impugned Judgment is in order and requires no interference.

7. I have considered the arguments advanced by the learned counsel for the appellant and the 2nd respondent.

8. After considering the evidence on records of the case, the compensation awarded by the Tribunal is enhanced by another sum of Rs.80,000/- under the following heads:-

Heads	Compensation awarded by the Tribunal (A)	Enhanced by this Court (B)	Total of the Compensation (A+B)
Disability	* Rs.30,000/-	# Rs.30,000/-	Rs.60,000/-
Conveyance Expenses	Rs.02,000/-	-	Rs.02,000/-
Extra nourishment	Rs.03,000/-	-	Rs.03,000/-
Medical expenses	Rs.05,000/-	-	Rs.05,000/-
Pain and sufferings	Rs.10,000/-	Rs.10,000/-	Rs.20,000/-
Loss of income during treatment	-	Rs.18,000/-	Rs.18,000/-
Attender charges	-	Rs.10,000/-	Rs.10,000/-
Loss of amenities	-	Rs.10,000/-	Rs.10,000/-



WEB COPY

Damages to clothing etc	-	Rs.02,000/-	Rs.02,000/-
Total	Rs.50,000/-	Rs.80,000/-	Rs.1,30,000/-

Note: * Rs.1,000 x 30% = Rs.30,000/- and
Rs.1,500 x 40% = Rs.60,000/- (Rs.60,000 - Rs.30,000 = Rs.30,000)

8. Therefore, the 2nd respondent Insurance Company is directed to deposit the enhanced amount of compensation of Rs.80,000/- (Rs.1,30,000/- - Rs.50,000/-) and balance amount of compensation and cost awarded by the Tribunal, if any, together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit excluding default period from 29.10.2012 to 12.10.2018, within a period of six weeks from the date of receipt of a copy of this Judgment.

9. On such deposit being made by the 2nd respondent Insurance Company, the appellant is permitted to withdraw the same together with interest by filing suitable application before the Tribunal. Since the compensation is enhanced, the appellant/claimant is directed to pay the deficit court fee, within a period of two weeks from the date of receipt of a copy of this Judgment.

10. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No cost.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jen

To:

The Additional District and Sessions Court
(Fast Track Court - IV), Chennai /
Motor Accidents Claims Tribunal,
Chennai.

C.M.A.NO.1881 OF 2011

KJ(CO)
PBS/16/08/2021