IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2020

CORAM:
THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.252 of 2011

(Through Video Conferencing)

Gnanasekaran ... Appellant/Petitioner

Vs.

1. K.Pachiappan

2. United India Insurance Company Limited,
No.38, Anna Salai,
Chennai - 2. ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 22.10.2010 made in M.C.O.P.No.598 of 2006, on the file of the Motor Accidents Claims Tribunal (The IV Court of Small Causes), Chennai.

For Appellant : Ms.A.Subadra for F.Terry

For Respondents:
For R1 : set exparte

For R2 : Ms.I.Malar

JUDGMENT

The claimant is the appellant in this appeal and is aggrieved by the impugned Judgment and Decree dated 22.10.2010 passed by the Motor Accidents Claims Tribunal (The IV Court of Small Causes), Chennai.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.69,000/- as compensation for the injuries suffered by the appellant/claimant. The appellant/claimant was aged about 50 years at the time of accident and was stated to be working as a coolie earning a sum of Rs.200 per day. He met with an accident, when he was travelling in a share auto bearing

Registration No.TN-20-P-9780. He is supposed to have undergone treatment at Kilpauk Medical College Hospital as an inpatient between 05.04.2005 and 07.05.2005. It is submitted that the compensation awarded to the appellant/claimant appears is on the lesser side considering the liability assessed by the Tribunal.

3. It is submitted that the appellant/claimant is entitled to higher compensation as per the decision of the Hon'ble Supreme Court. Even in case of permanent and partial disability, the appellant/claimant would be entitled to compensation by adopting the multiplier.

4. I have considered the arguments advanced on behalf of the learned counsel for the appellant and the 2nd respondent (Insurance Company). I have perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

5. The disability has been assessed as 45% by P.W.2-Doctor as per EX.P5. The Court has cosnidered 40% and awarded a sum of Rs.40,000/- at the rate of Rs.1,000/- per percentage as permanent disability.

6. The amount of compensation that has been awarded towards permanent disability by calculating at Rs.1,000/- per percentage appears to be low and is therefore increased to Rs.2,000/- per percentage. The Tribunal ought to have considered the functional disability as 15% instead of 40% while calculating the compensation. Therefore, an amount of Rs.40,000/- awarded towards permanent disability by the Tribunal is to be re-quantified.

7. At the same time, the Tribunal has not awarded the compensation under the heads of loss earning capacity and attenders charges. Therefore, an amount of compensation is to be awarded towards the loss of earning capacity by applying multiplier 11 and the functional disability of 15% at the notional monthly income of Rs.3,000/- and adding future prospects at 25% as per the decision of the Hon'ble Supreme Court in Sanjay Verma Vs. Haryana Roadways, (2014) 3 SCC 210. Similarly, a sum of Rs.5,000/- is to be awarded towards attender charges since the appellant/claimant was hospitalised for a period of 30 days. Amount awarded towards pain and sufferings is enhanced to Rs.20,000/-. In fine, the compensation of Rs.69,000/- awarded by the Tribunal is re-quantified as follows:-

Heads	Award amount of the Tribunal	Re-quantified amount by this Court	Status (Enhanced or Reduced or Confirmed or Granted)
Loss of Income (3000 x 3)	Rs. 9,000/-	Rs. 9,000/-	Confirmed
Transport to Hospital	Rs. 3,000/-	Rs. 3,000/-	Confirmed
Extra Nourishment	Rs. 3,000/-	Rs. 3,000/-	Confirmed
Medical Expenses	Rs. 4,000/-	Rs. 4,000/-	Confirmed
Pain and Sufferings	Rs.10,000/-	Rs.20,000/-	Confirmed
Permanent Disability	# Rs.40,000/-	* Rs.30,000/-	Reduced
Attender Charges	-	Rs. 5,000/-	Granted
Loss of earning capacity	-	** Rs.74,250/-	Granted
Total	Rs.69,000/-	Rs.1,48,250/- rounded off to Rs1,50,000/-	Enhanced by another sum of Rs.81,000/-

40 x 1000 = Rs.40,000/-
* 15 x 2000 = Rs.30,000/-
** 3000 + 25/100 x 15/100 x 12 x 11 = Rs.74,250/-

8. Therefore, the second respondent Insurance Company is directed to deposit the enhanced amount of compensation of Rs.81,000/- (1,50,000 - 69,000) together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, within a period of six weeks from the date of receipt of a copy of this Judgment.

9. If the second respondent Insurance Company has not deposited the entire amount of compensation awarded by the Tribunal, it is also directed to deposit the same together with interest and proportionate costs as directed by the Tribunal, less any amount already deposited, within the aforesaid period.

10. On such deposits, the appellant/claimant is permitted to withdraw the same together with interest and costs, less any amount already withdrawn, by filing suitable application before

the Tribunal.

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

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

arb/jen

To:

1.The IV Judge,
The Motor Accidents Claims Tribunal,
Court of Small Causes, Chennai.

2.The Section Officer,
VR Section, High Court,
Madras.

C.M.A.No.252 of 2011

KK(CO)
GN(19/12/2020)