

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2796 of 2015

Manokaran

.. Appellant

Vs.

1. Sathyamurthy

(Since R1 remained exparte before the Tribunal
his presence may be dispensed with)

2. United India Insurance Co.Ltd.,

Having its office at
No.7, Divisional office,
MTH Road, Ambattur,
Chennai - 600 053

..Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.06.2014 and made in M.A.C.T.O.P.No.210/2011 on the file of the Motor Accident Claims Tribunal and IV Additional District Judge, Ponneri.

For Appellant : Mr.F.Terry Chellaraja

For Respondents: R1 - Exparte vide in EB

R2 - Mr.D.Bhaskaran

JUDGMENT

The civil miscellaneous appeal is filed against the judgment and decree dated 20.06.2014 passed in M.A.C.T.O.P.No.210/2011.

2. The claimant preferred this civil miscellaneous appeal, seeking enhancement.

3. The accident occurred on 23.03.2008 at about 04.30 hrs, near Bus Stand, Masuthi Street, Pattabiram, Chennai. Pattabiram Police Station, registered a case in Crime No.316/2008. The appellant/claimant sustained serious injuries of : (1) Fracture left Humerous with radial nerve palsy, (2) Left tibial plateau fracture, (3) Grade-III B comminuted fracture right tibia with skin and bone loss and multiple abrasion and contusion injuries all over the body grievous in nature.

4. The petitioner filed a petition for compensation of Rs.14,50,000/- and the Tribunal, with reference to the issues raised, adjudicated the claim petition. With reference to the liability, the Tribunal, arrived a conclusion that the Insurance company is liable to pay compensation to the claimant. As far as the coverage of policies are concerned, the same was established by the claimant before the Tribunal. Thus, the claimant is entitled for compensation. Thereafter, the Tribunal proceeded for fixation of fair compensation.

5. The total compensation awarded by the Tribunal is Rs.7,70,000/- (Rupees Seven Lakhs Seventy Thousand only).

6. The learned counsel appearing on behalf of the appellant/claimant mainly contended that the injuries sustained by the claimant are very serious and he is totally immobile and unable to perform any duties and responsibilities and even to lead a normal life and he is suffering. In view of the fact that the Tribunal has not adjudicated the issues with reference to the nature of injuries sustained by the claimant, as well as the treatment taken, this Court once again directed the appellant/claimant to appear before the Medical Board and accordingly, the appellant appeared before the Regional Medical Board, Rajiv Gandhi Government General Hospital, Chennai - 600 003, who in turn, submitted a report on 11.02.2020. As per the report of the Medical Board, they have assessed 60% physically handicapped.

7. The Medical Board made an observation that the appellant/claimant was suffering Post Traumatic skeptical left upper limb with right lower limb and assessed physically handicapped as 60%.

8. Relying on the said report, the learned counsel for the appellant reiterated that the compensation awarded is inadequate and not in commensuration with the nature of the injuries sustained as well as further treatment taken by the appellant.

9. It is contended that even now, the appellant is now taking treatment and not in a position to lead a normal life. These facts are unable to be disputed by the learned counsel appearing on behalf of the respondent Insurance Company. Undoubtedly, the Tribunal has not elaborately adjudicated the post treatment taken by the claimant and under these circumstances, this Court is inclined to reschedule the compensation awarded by the Tribunal as hereunder. The claimant is entitled for a higher compensation than that of the compensation granted by the Tribunal.

10. This Court is of an opinion that the case on hand is a fit case for application of Multiplier method for arriving a fair compensation. Accordingly, 30% of Functional disability is taken into consideration for the purpose of assessing the loss

of income. Thus, the compensation to be awarded is detailed hereunder:

Disability and Future income (Rs.7,150/-*12*13*30%)	:	3,34,620/-
Extra nourishment	:	25,000/-
Loss of Pain and Suffering	:	50,000/-
Medical Expenditure	:	5,00,000/-
Loss of income for the period, in which, he was taking treatment	:	50,000/-
For Attendant Charges	:	20,000/-
For Loss of Maintenance	:	50,000/-
Total	:	10,29,620/-

11. The total compensation payable to the appellant is a sum of Rs.10,29,620/- (Rupees Ten Lakhs Twenty Nine Thousand Six Hundred and Twenty only)

12. The awarded amount has already been deposited by the respondent/Insurance company. Thus, the 2nd respondent Insurance company is directed to deposit the enhanced compensation with accrued interest at the rate of 7.5% per annum, within a period of six (6) weeks from the date of receipt of a copy of this judgment and on such deposit, the appellant/claimant is permitted to withdraw the entire award amount with accrued interest by filing an appropriate application and the payments are to be made through RTGS. The appellant/claimant is directed to pay Court fee for the enhanced compensation.

13. With this modification, the judgment and decree dated

20.06.2014 passed in M.A.C.T.O.P.No.210/2011 is quashed and the Civil Miscellaneous Appeal in C.M.A.No.2796 of 2015 stands allowed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kak
To

1. The Section Officer,
V.R Section,
High Court, Madras.
2. The IV Additional District Judge,
(Motor Accidents Claims Tribunal),
Ponneri.

+1cc to M/s.M.Malar, Advocate, S.R.No.20447

+1cc to Mr.D.Bhaskaran, Advocate, S.R.No.20311

C.M.A.No.2796 of 2015

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