

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1658 of 2016

S.Kaliappan

.. Appellant/Petitioner

Vs.

1.Shanmuga Priya

2.Royal Sundaram Alliance
Insurance Co. Ltd.,
No.6, Lattice Bridge Road,
Adyar,
Chennai.

... Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 19.09.2014 passed in M.C.O.P.No.6079 of 2012 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For R1 : No appearance

For R2 : Not ready in notice

J U D G M E N T

The civil miscellaneous appeal is filed against the judgment and decree dated 19.09.2014 passed in M.C.O.P.No.6079 of 2012 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai.

2. The appellant herein is the claimant and the appeal is preferred for enhancement of quantum of compensation awarded by the Tribunal.

3. The accident occurred on 10.12.2012 at 09.50 hours at Sardar Patel Road, CPT Junction, Madhya Kailash, Kotturpuram, Chennai. A case was registered in J2-Adyar Traffic Investigation Police Station Crime No.639/AM1/2012. The appellant (hereinafter

would be referred to as "the claimant") sustained injuries viz., fracture over left ankle, facial injury, head injury, injury over both hands and multiple internal and external injuries all over the body. A claim petition was filed by the claimant before the Tribunal seeking compensation of Rs.6,00,000/-. The Tribunal adjudicated the issue with reference to the documents and evidences produced by the respective parties.

4. As far the liability is concerned, there is no dispute as the Tribunal held that the 2nd respondent/insurance company is liable to pay the compensation. The factum regarding the accident is established. The coverage of police is also established.

5. The Tribunal, after considering the documents viz., accident register (Ex-P2) and discharge summary (Ex-P3) produced by the claimant, awarded the total compensation of Rs.1,63,968/-.

6. The discharge summary (Ex-P3) shows that the claimant sustained comminuted fracture medial malleolus left and was treated as an in-patient from 10.12.2012 to 17.12.2012, thereby MIPPO plate was applied.

7. Dr.Saichandran (PW2), who medically examined the claimant, assessed the disability as 40% for the injuries sustained by the claimant and deposed that the bones united in expanded and irregular manner causing traumatic arthritis of the left ankle, movements in bending upwards and downwards causes restriction of 30 degrees from the normal 45 degrees, active use causes pain and swelling, tenderness and movements over the left ankle and sitting cross legged on the floor and doing heavy activity causes pain and swelling and movement restriction.

8. However, the Tribunal found that Dr.Saichandran (PW2) has not treated the claimant and the nature of injuries were not scheduled. The claimant was aged about 58 years at the time of accident.

9. Considering all these factors, the Tribunal fixed the disability as 40% and accordingly, awarded compensation.

10. This Court is of the considered view that there is no infirmity in respect of the assessment of disability as 40% by the Tribunal. However, the grant of compensation of Rs.1800/- per percentage alone requires to be interfered with. The Tribunal ought to have awarded Rs.3,000/- per percentage.

11. Accordingly, the compensation awarded by the Tribunal is re-scheduled as hereunder:

S.No.	Compensation on various heads	Compensation amount (in Rs.)
1	Transport to Hospital	15,000/-
2	Extra nourishment	7,000/-
3	Damage to clothing	500/-
4	Medical expenses	14,468/-
5	Loss of amenities	15,000/-
6	Loss of social status	10,000/-
7	Pain and suffering	30,000/-
8	Disability (40 x 3000)	1,20,000/-
Total		2,11,968/-

Thus, the total award of compensation payable to the claimant is Rs.2,11,968/-. The 2nd respondent/insurance company is directed to deposit the entire award of compensation with accrued interest, if not already deposited, within a period of six weeks from the date of receipt of a copy of this order, along with the interest of 7.5 % per annum for the enhanced compensation. On such deposit, the claimant is permitted to withdraw the entire amount by filing an appropriate application before the Tribunal and the payments are to be made only through RTGS.

With the above modification, this civil miscellaneous appeal stands allowed. No costs. The claimant/appellant is liable to pay the additional Court fee for the enhanced amount of compensation.

Sd/-
Assistant Registrar(CS II)

//True Copy//

सतरावेकदशाने
Sub Assistant Registrar

nsd

To

1. The III Judge,
Motor Accident Claims Tribunal,
(III Court of Small Causes), Chennai.

Copy to : The Section Officer,
V.R Section, Madras High Court, Chennai - 600 104.

+1 cc to M/s.K.Varadhakamaraj, Advocate Sr.No. 19823

C.M.A.No.1658 of 2016

RLD(CO)

RMP(05/05/2021)