

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1898 of 2016
and
C.M.P. No. 13919 of 2016

The United Insurance Co. Ltd.
No.134, Greams Road
4th Floor, Silingi Building
Chennai - 6.

.. Appellant/2nd Respondent

Vs.

1.K.Krishnamurthy
2. M.Ravi Selvam

... 1st Respondent/Petitioner

.. 2nd Respondents/1st Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 28.04.2016, made in M.C.O.P. No. 2160 of 2013, on the file of Motor Accidents Claims Tribunal (II Judge, Court of Small Causes) at Chennai.

For Appellant : Mr. M.Krishnamoorthy

For Respondents: Mr. A.A.Venkatesan (for R1)
R2-Exparte

J U D G M E N T

The quantum of compensation awarded by the Tribunal is sought to be interfered with in the appeal filed against the judgment and decree dated 28.04.2016 passed in M.C.O.P. No. 2160 of 2013.

2. The accident occurred on 17.01.2013 at about 20.15 hours at E.C.R. Road, Kabab Court, Near Prathan Theatre, Chennai. On account of the accident, the respondent /claimant sustained grievous injury, more specifically, fracture of right shoulder clavicle, operated plate and screw fixed and multiple injuries all over the body. The Tribunal adjudicated the issue with reference to the documents and evidences produced. As far as the liability is concerned the Tribunal has arrived at a conclusion that the accident took place due to rash and negligent driving of the offending vehicle driver and the respondent/claimant attained grievous injury due to the same.

3. With reference to the quantum of compensation, learned counsel appearing on behalf of the appellant/insurance company mainly contended that the percentage of disability of 50% fixed by the Tribunal is excessive. The Doctor's Certificate was believed as it is. The Doctor Certificate issued by a Medical Practitioner, who had not actually treated the respondent / claimant and therefore, the disability percentage fixed by such Doctor cannot be relied as full proof document and the Tribunal ought to have considered the other factors and fixed lesser disability.

4. It is also contended that the respondent /claimant had taken treatment at Government General Hospital, Chennai at the first instance and he continued his treatment at a private hospital in Nagercoil. However, no records have been produced, except discharge summary, which was erroneously taken into consideration by the Tribunal.

5. Learned counsel appearing for the appellant /insurance company is of the opinion that once a sum of Rs.44,000/- was awarded towards the medical expenses, further amount of Rs.40,000/- for future medical expenses is improper.

6. The learned counsel appearing for the respondent /claimant disputed the said contention by stating that the respondent sustained grievous injury and the same caused permanent disability. The respondent /claimant is unable to perform his job on account of fracture and therefore, the compensation fixed by the Tribunal is just and proper and the appeal is liable to be dismissed.

7. This Court is of the considered opinion that regarding the quantum of compensation the Tribunal considered the expenses relating to Transportation, nourishing food and miscellaneous expenditure all together granted Rs.50,000/-. Towards medical expenses the Tribunal considered the treatment taken by the respondent/claimant as inpatient at Sushrusharah Medical Centre (P) Limited, Nagercoil, where he was admitted as inpatient from 19.02.2013 to 23.02.2013. Thus, the Tribunal has considered the medical bills and accordingly, granted Rs.44,000/- towards the medical expenses. However, award for future medical expenses are not supported with any further documents. Therefore, this Court is inclined to review future medical expenses awarded by the Tribunal and in all other aspects the compensation awarded is to be confirmed.

8. In view of the facts and circumstances, the following amount of compensation is to be re-scheduled as under:-

1. Transportation, nourishing food and miscellaneous expenditure	Rs. 50,000/-
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2. Medical expenses	Rs. 44,000/-
3. Attender charges	Rs. 10,000/-
4. Disability	Rs. 1,50,000/-
5. Loss of earning during the period of treatment	Rs. 26,000/-
6. Damages for pain, suffering and trauma	Rs. 50,000/-
7. Loss of amenities	Rs. 30,000/-

Thus the total compensation is fixed at Rs. 3,60,000/-, which is payable to the respondent/claimant by the appellant /insurance company. The appellant /insurance company is directed to deposit the entire award amount with interest, if not already deposited, within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the respondent/claimant shall be permitted to withdraw the said amount by filing an appropriate application and the payments are to be made only through RTGS.

14. With this modification, the Civil Miscellaneous Appeal stands allowed in Part. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

may

To

1.The Motor Accident Claims Tribunal/
II Judge, Small Causes Court,
Chennai.

Copy To

The Section Officer,
V.R Section, High Court, Madras.

+1cc to Mr.M.Krishnamoorthy, Advocate, S.R.No. 19117
+1cc to Mr.A.A.Venkatesan, Advocate, S.R.No. 18821

C.M.A. No. 1898 of 2019

RLD(CO)
GN(21/01/2021)