

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.NO.2078 OF 2016

K.Radhakrishnan

.. Appellant/Petitioner

Vs.

1. A.Vijaya Banu

2. The New India Assurance Company Ltd.,
No.46, Moore Street, Chennai -1.

3. P.Hemand Kumar

4. P.Periyasami

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.09.2014 made in M.C.O.P.No.2377 of 2005 on the file of the Motor Accident Claims Tribunal (III Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents: No appearance for R1

Mr.C.Ramesh Babu for R2

Mr.S.Muthukumar for R3 & R4

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the judgment and decree dated 23.09.2014 passed in M.C.O.P.No.2377 of 2005.

2. The claimant is the appellant before this Court. The accident occurred on 23.03.2005 at about 17.00 hours at Old Thirumangalam Road, Near Kamatchi Store, Chennai 49. The appellant/claimant sustained injury of left thigh both bones fracture, lacerations and abrasions all over the body. He was treated as inpatient in Railway Hospital from 23.03.2005 to 04.04.2005. The appellant even at that point of time working as a Senior Section Engineer and the claim petition was filed claiming Rs.2,50,000/-, towards compensation. The Tribunal adjudicated the issues and found that the Insurance Company is liable to pay compensation, since the policy was in force. As far as the nature of injuries sustained by the appellant/claimant are concerned, the Tribunal assessed the

partial permanent disability as 35% and accordingly, granted Rs.1,800/- per percentage and awarded Rs.63,000/-, towards compensation. Further compensations were granted on various heads and the total compensation was fixed as Rs.98,000/-.

3. The learned counsel appearing on behalf of the appellant mainly contended that the Doctor assessed 40% partial permanent disability and the Tribunal reduced the same as 35%, which is not in accordance with law. This apart, the appellant sustained fracture in both bones, which cause serious injuries and therefore, the appellant is entitled for enhanced compensation.

4. Perusal of the entire award reveals that P.W.2 Doctor Mathiazhagan had not treated the appellant/claimant and at the time of accident the claimant was 55 years old. Considering those factors, the Tribunal fixed 35% partial permanent disability and accordingly fixed the compensation. Under these circumstances, this Court do not find any perversity or infirmity, as such in awarding the compensation and even in case of raising another 5% there cannot be much difference and therefore, this Court is not inclined to interfere with the awarded compensation, which is otherwise just and proper.

5. Accordingly, the judgment and decree dated 23.09.2014 passed in M.C.O.P.No.2377 of 2005 is confirmed and the Civil Miscellaneous Appeal in C.M.A.No.2078 of 2016 stands dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ms
To

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

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

+1cc to Mr.C.Ramesh Babu, Advocate, in SR.No.20166
+1cc to Mr.S.Muthukumar, Advocate, in SR.No.20276
+1cc to Mr.V.Mohanchoudary, Advocate in SR.No.20417

C.M.A.No.2078 of 2016

LN(CO)
CS/09/02/2021