

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.217 of 2016

Thirumoorthi

.. Appellant/Petitioner

Vs.

1. Chenniappan

2. Ravikumar

(R1 and R2 were set exparte in the Trial Court)

3. United India Insurance Co. Ltd.,

No.2/117, PRS Road,

Chennimalai, Perundurai Taluk,

Erode District.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 30.06.2015 made in M.C.O.P.No.27 of 2014, on the file of Motor Accident Claims Tribunal, (Subordinate Court), Perundurai.

For Appellant : Mr.C.Munusamy

For RR1 & 2 : Exparte

For R3 : Mr.C.Paranthaman

J U D G M E N T

The civil miscellaneous appeal is preferred seeking enhancement of compensation. The Judgment and Decree dated 30.06.2015 is challenged mainly on the ground that the Tribunal has granted an inadequate compensation without considering the grievous injuries sustained by the claimant.

2. The accident occurred on 26.12.2013 at about 13.00 hours at Kunnathur to Pallagoundenpalayam Main Road. Uttukuli Police Station registered a case in Crime No.320 of 2013 u/s. 279, 337 of I.P.C. The claimant sustained grievous injuries and taken treatment as in-patient.

3. The permanent disability was assessed as 52% by the Tribunal. The Tribunal considered the documents as well as the evidences and arrived a conclusion that the factum regarding the accident was established by the claimant and accordingly found

the coverage in the policy. Thus the liability is fixed on the third respondent/Insurance company. While fixing the quantum of compensation, the Tribunal has granted a sum of Rs.3,000/- per percentage and accordingly awarded a sum of Rs.1,56,000/- towards permanent disability. However, this Court is of the considered opinion that the appellant/claimant was working as a driver and therefore the compensation granted under the head of permanent disability is inadequate. This apart, the compensation granted under the head of Transport as well as Extra nourishment are also to be enhanced.

4. The nature of treatment as well as the permanent disability sustained by the claimant was adjudicated by the Tribunal. The claimant has sustained 3 injuries, viz., (1) Punctured wound present in the lateral aspect of the right thigh. Swelling over right thigh. Swelling/deformity/tenderness/crepitus/abnormal/mobility present in the mid 3rd of right thigh, (2) Lacerated wound of size 10 x 5 cm present on the medial aspect of right foot and (3) Lacerated wound of size 5x3x2 cm present over the posterior lateral aspect of the right. Considering the nature of the injuries sustained as well as considering the fact that the claimant was a driver, this Court is inclined to enhance the compensation as under:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Earnings	30,000/-	30,000/-	Confirmed
2.	Transport to Hospital	15,000/-	25,000/-	Enhanced
3.	Extra Nourishment	5,000/-	20,000/-	Enhanced
4.	Medical Expenses	2,42,074/-	2,42,074/-	Confirmed
5.	Pain and Sufferings	50,000/-	50,000/-	Confirmed
6.	Permanent Disability (52% x Rs.4000/-)	1,56,000/-	2,08,000/-	Enhanced
	Total	4,98,074/-	5,75,074/-	Enhanced to Rs.5,75,074/-

5. The appellant/claimant is entitled for a total compensation of Rs.5,75,074/-. Therefore, the third

respondent/Insurance company is directed to deposit the entire award amount including the enhanced amount along with interest at the rate of 7.5% per annum, if not already deposited, within a period of six weeks from the date of receipt of copy of this judgment and on such deposit, the claimant is permitted to withdraw the said amount by filing appropriate application and the payments are to be made only through RTGS.

6. The Tribunal itself has granted pay and recovery. Thus this Court is of the opinion that the order of pay and recovery is to be confirmed. Accordingly, the third respondent/Insurance company is permitted to file an Execution Petition to recover the award amount with interest from the owner of the vehicle by following the procedures contemplated.

7. With this modification, the Civil Miscellaneous Appeal stands allowed in Part. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal
Perundurai.

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

+1 CC to Mr.C.Paranthaman, Advocate sr 22493.

+1 CC to Mr.C.Munusamy, Advocate sr 22616.

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SP(05/11/2020)