

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2767 of 2016

Kumarasan

.. Appellant/Petitioner

Vs.

1. R.Pachiappan

2. Royal Sundaram Allianz Insurance Co. Ltd.,
Sundaram Towers, No.45 & 46,
Whites Road, Chennai - 14. ... Respondents/Respondents

Prayer:-

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.04.2015 passed in M.C.O.P.No.493 of 2012 on the file of the Motor Accident Claims Tribunal (II Additional District Court), Poonamallee.

For Appellant : Ms.Ramya Saravanan
for Mr.J.Mahalingam

For R2 : Mr.E.Rajadurai
for Mr.N.Vijayaraghavan

J U D G M E N T

The civil miscellaneous appeal is filed against the judgment and decree dated 10.04.2015 passed in M.C.O.P.No.493 of 2012 on the file of the Motor Accident Claims Tribunal (II Additional District Court), Poonamallee.

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 06.04.2012 around 17.00 hours at Villivakkam, New Avadi Salai, Nathamuni Signal. A case was registered in V5-Thirumangalam Traffic Investigation Police Station Crime No.108/Tm3/2012. The appellant (hereinafter would be referred to as "the claimant") sustained injuries viz.,

compound communitied fracture of both bones right leg, laceration of the right ankle and other serious multiple injuries all over the body. The claimant filed a claim petition before the Tribunal seeking compensation of Rs.5,00,000/-.

4. The Tribunal adjudicated the issue with reference to the documents and the evidences produced by the respective parties and arrived at a conclusion that the second respondent/ insurance company is liable to pay the compensation of Rs.1,33,000/- to the claimant. The factum regarding the accident was established by the claimant before the Tribunal. The coverage of policy is also established before the Tribunal.

5. Heard Ms.Ramya Saravanan, learned representing counsel for Mr.J.Mahalingam, learned counsel on record for the claimant and Mr.E.Rajadurai, learned representing counsel for Mr.N.Vijayaraghavan, learned counsel on record for the second respondent.

6. The learned counsel appearing on behalf of the claimant disputed the quantum of compensation awarded by the Tribunal. He mainly contended that the assessment of disability as 40% and grant of Rs.2,000/- per percentage is inadequate and sought enhancement of compensation.

7. As regards the assessment of partial permanent disability as 40% is concerned, this Court does not find any infirmity as such in view of the fact that the claimant was admitted in the hospital as an in-patient and had taken treatment for fracture of both bones right leg. This being the factum, there is no perversity with reference to the assessment of disability as 40% and the discharge summary (Ex-P4) as well as the evidence on record reveals the said position.

8. In such perspective of the matter, this Court is not inclined to interfere with the percentage of disability assessed by the Tribunal. However, the claimant is entitled for enhancement of compensation of Rs.3,000/- per percentage.

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

S.No.	Compensation on various heads	Compensation amount (in Rs.)
1	Disability (40 x 3000)	1,20,000/-
2	Pain and suffering	25,000/-
3	Extra nourishment	10,000/-

S.No.	Compensation on various heads	Compensation amount (in Rs.)
4	Loss of income during the treatment period	12,000/-
5	Damages to clothes	1,000/-
6	Transport charges	5,000/-
Total		1,73,000/-

Thus, the total award of compensation payable to the claimant is enhanced as Rs.1,73,000/-. It is brought to the notice of this Court that the award of compensation by the Tribunal had already been deposited by the second respondent/insurance company.

10. In view of the same, the second respondent/insurance company is directed to deposit the enhanced amount of compensation of Rs.40,000/- along with accrued interest at the rate of 7.5% per annum within six weeks from the date of receipt of a copy of this order and on such deposit, the claimant is permitted to withdraw the said amount by filing an appropriate application 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 VI)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The II Additional District Judge,
Motor Accident Claims Tribunal, Poonamallee.

+1cc to Mr.M.R.Gopalan, Advocate, S.R.No.20770

C.M.A.No.2767 of 2016

RJI (CO)
CS/01/02/2021