

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2798 of 2016

Muthamizh Selvan

.. Appellant /Petitioner

Vs.

1.M/s.Manakula Vinayagar,
Engineering College Madagadipet,
Rep. by Chairman, Puducherry,
(set exparte before Tribunal)

2.The Branch Manager,
Iffco-Tokio General Insurance Co. Ltd.,
Pondicherry. .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 23.08.2016 made in M.C.O.P.No.19 of 2014, on the file of Motor Accident Claims Tribunal, (FAC), Puducherry.

For Appellant : Mr. R.Sreedhar
For R1 : Exparte
For R2 : Mr.C.R.Krishnamoorthy

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the judgment and decree dated 23.08.2016 passed in M.C.O.P.No.19 of 2014.

2. The accident occurred on 17.05.2013 and Traffic Police Station (South) registered a case in Crime No.113 of 2013. On account of the accident, the appellant-claimant sustained grievous injuries which caused permanent disablement. Thus the claim petition is filed seeking compensation of Rs.7,00,000/-. The Tribunal adjudicated the issues with reference to the document as well as the evidences produced. As far as the liability is concerned, the Tribunal arrived at a conclusion that the Insurance Company is liable to pay compensation as the policy was in force and there is a coverage. The Tribunal proceeded and assessed the quantum of compensation and the

findings of the Tribunal in this regard are relevant. P.W.2 in his evidence has stated that he has not given treatment to the petitioner but he is an Orthopaedic surgeon. Out of the total disability, item Nos.25, 26 and 32 alone is taken into consideration, as the other disabilities can be cured by further medication. Thus, the Tribunal has assessed the disabilities of the injured as 42% for the purpose of calculation of compensation. Accordingly Rs.3,000/- per percentage was fixed and total compensation of Rs.1,26,000/- was awarded towards disabilities.

3. The learned counsel appearing on behalf of the appellant made a submission that the assessment of disability is erroneous, as the Tribunal ought to have applied multiplier. This apart, no compensation was granted for loss of income and towards attender charges. On these heads also the appellant is entitled for enhancement.

4. This Court is of the considered opinion that undoubtedly, the Tribunal has not granted any compensation for loss of income during the treatment period. However, the Tribunal found that a sum of Rs.3,500/- was received by the appellant from E.S.I. during the treatment period of nine months. But the salary received by the appellant during the relevant point of time was Rs.10,540/-. This being the factum, it would be appropriate to grant enhancement under the head of Loss of Income during the treatment period. The active treatment was taken by the appellant atleast for about six months and the amount under the head loss of income is to be calculated as 6 months x 7000 = Rs.42,000/-. Towards attender charges Rs.10,000/- is to be awarded. Accordingly, the compensation is increased as under:

S.No.	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Pain and sufferings	10,000/-	10,000/-
2.	Rich and nutritious food	5,000/-	5,000/-
3.	Transport expenses	5,000/-	5,000/-
4.	Permanent Disability	1,26,000/-	1,26,000/-
5.	Loss of Income (6x7000)	0	42,000/-
6.	Attender charges	0	10,000/-
	Total	1,46,000/-	1,98,000/-

5. Accordingly, the total compensation payable to the claimant is Rs.1,98,000/- (Rupees One lakh and Ninety Eight thousand only).

6. The second respondent/Insurance Company is directed to deposit the enhanced amount of compensation along with the interest at the rate of 7.5% per annum within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the appellant-claimant is permitted to withdraw the entire amount by filing an appropriate application and the payments are to be made only through RTGS.

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

Sd/-
Assistant Registrar (CS VI)

/true copy/
Sub Asst. Registrar

rsi
To

- 1.The Presiding Officer,
Additional Motor Accident Claims Tribunal (FAC),
Puducherry.
- 2.The Section Officer,
V.R Section,
High Court, Madras.

+1 cc to Mr.R.Sreedhar Advocate sr20555
+1 cc to Mr.C.R.Krishnamoorthy Advocate sr20758

C.M.A.No.2798 of 2016

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