

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2833 of 2016

B.Kasi ..Appellant/Claimants
Vs.

1.R.Ramalingam
(R1 remained exparte before the Tribunal,
hence dispensed with)

2.Shriram General Insurance Company Limited,
City Centre Complex, II Floor,
No.66, Thirumalai Pillai Road,
T.Nagar, Chennai - 600 017.

..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 16.06.2016 made in M.C.O.P.No.1881 of 2014, on the file of Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.F.Terry Chellaraja
For R1 : Exparte
For R2 : Mr.K.Poomalai

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the judgment and decree dated 16.06.2016 passed in M.C.O.P.No.1881 of 2014.

2. The accident occurred on 27.02.2014 at about 10.30 hours at Puthu Koil near Annai Arogya Hospital. The appellant-claimant sustained grievous injuries of head fracture, both hand injury, both leg injury and multiple injuries all over the body.

3. The Tribunal adjudicated the issues regarding liability and found that the Insurance Company is liable to pay compensation to the claimant as the policy was in force and the coverage is also established. Thus the Tribunal calculated the compensation and awarded a sum of Rs.1,55,000/- as total compensation.

4. The learned counsel appearing on behalf of the appellant mainly contended that the assessment of disability made by the Tribunal is erroneous in view of the fact that the Doctor assessed the disability as 50%, which was reduced by the Tribunal as 25%. Such a reduction is not based on any materials on record and there is no logic in such reduction. This apart during the relevant point of time in the year 2014, the salary of a labour was not Rs.6,500/- and the Tribunal just granted Rs.6,500/- towards loss of income, which is also improper. This Court is of the considered opinion that it would be appropriate to fix Rs.10,000/- per month and even the treatment is taken by the claimant for about four months, the compensation for the said head would be around Rs.40,000/-. Apart from that P.W.2 deposed that the disability to be assessed as 50%. Admittedly, P.W.2 was not the Doctor, who treated the appellant-claimant. However, the Tribunal reduced the percentage to 25% only on the basis that the Doctor has not assessed the whole body and therefore, the liability fixed by the Doctor cannot be accepted. Even in such case there can be a reduction of 5% to 10% and reduction of 25% in disability is little excess and this Court is inclined to fix the disability as 40% and accordingly an amount of Rs.4,000/- per percentage is to be fixed, as the accident occurred during the year 2014. Accordingly, the compensation is increased as under:

S.No.	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Disability (40% x 4000)	75,000/-	1,60,000/-
2.	Pain and suffering	25,000/-	25,000/-
3.	Extra Nourishment	5,000/-	5,000/-
4.	Transport to Hospital	5,000/-	5,000/-
5.	Damages to clothes	1,000/-	1,000/-
6.	Attender charges	750/-	750/-
7.	Medical expenses	26,481/-	26,481/-
8.	Future Medical expenses	5,000/-	5,000/-
9.	Loss of income (10,000x4)	6,500/-	40,000/-
10.	Loss of amenities	5,000/-	5,000/-
	Total	1,54,731/-	2,73,231/-

5. Accordingly, the total compensation payable to the claimant is Rs.2,73,231/-.

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.

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

rsi
To

1.The IV Judge,
Court of Small Causes,
(Motor Accidents Claims Tribunal),
Chennai.

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

+1 CC to M/s.M. Malar, Advocate sr 20448
+1 CC to Mr.K.Poomalai, Advocate sr 20761.

C.M.A.No.2833 of 2016

MR(CO)
SP(23/04/2021)