

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.504 of 2016

V.P.Sathish Kumar

.. Appellant/petitioner

Vs.

1.Vivek

2.Reliance General Insurance Company Limited,
No.570, Brance Issuance Office,
Shri Complex, Bharathi Street,
Omalur Main Road,
Swarnapuri,
Salem - 606 004

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.87 of 2012 dated 13.10.2015 on the file of the MACT/Sub Court at Namakkal.

For Appellant : Mr.S.Sankar

For Respondents: For R1 - Exparte
in the trial Court
For R2 - Mr.S.Arunkumar

J U D G M E N T

The civil miscellaneous appeal is filed against the judgment and decree dated 13.10.2015 passed in M.C.O.P.No.87 of 2012.

2. The accident occurred on 04.03.2012 at about 5:15 P.M at near Keelapalayam Bridge on Namakkal to Chennai Main Road. Elavanasoor Kottai Police Station registered a case in Crime No.58/12 U/s.279, 337 of IPC.

3. The appellant/claimant sustained multiple grievous fracture injuries in his right hip, shoulder, forearm and severe

injuries in all over his body. Accordingly, he was taking treatment as inpatient and spent over and above a sum of Rs.5,00,000/- towards medical and transport and other expenses. Along with the Medical Certificates and other details, the claim petition was filed, claiming total compensation of Rs.20,00,000/-. The Tribunal adjudicated the issues with reference to the nature of the accident as well as the nature of the injuries sustained by the appellant/claimant. The findings of the Tribunal reveals that the Doctor Certificate stipulates 50% partial permanent disability on account of the injuries sustained by the appellant/claimant. However, the Tribunal has fixed 35% of partial permanent disability on account of that fact that the Doctor, who issued the certificate was not the Doctor, who treated the appellant/claimant. The appellant was treated by another Doctor and the certificate was issued by some other Doctor.

4. As far as the Doctor's certificates are concerned, this Court is of the considered opinion that the same is to be established beyond any pale of doubt. Mere production of Doctor Certificates will not of any avail to get the compensation based on the Doctor Certificate alone. The normal trend prevailing in the society are that the medical practitioners are issuing certificates based on the wishes of such claimants and not with reference to the truth behind the injuries as well as the treatment taken. In other words, all the Doctors certificate cannot be trusted as it is and such Doctors certificates are to be corroborated with reference to the other documents or incidences, which all are to be established by the claimants before the Motor Accidents Claims Tribunal. Thus, the claimant cannot rely on the Doctor certificate alone should seek enhancement on the ground that 50% partial permanent disability is assessed by the Doctor and the same was not considered by the Tribunal. The Tribunal, in its finding, categorically held that the Doctor, who issued certificate, has not treated the appellant/claimant and accordingly, fixed the partial permanent disability as 35%.

5. The next ground raised for enhancement is that the petitioner was working as Manager in Carpedium Company and drawing a monthly salary of Rs.50,000/-. Though two xerox copies of the documents are produced, the appellant/claimant has not taken any steps either to produce the Bank Statement to establish that his salary was Rs.50,000/- nor examined the authorized officials of the company to prove that he was receiving a salary of Rs.50,000/- per month. Mere xerox copies of salary certificates are insufficient to arrive a conclusion that the claimant was drawing a salary of Rs.50,000/-. As far as

the salary is concerned, it is to be proved with relevant documents and or through the evidences.

6. In the present case, the appellant had not established before the Tribunal that he was drawing a salary of Rs.50,000/- per month. Thus, the Tribunal fixed Rs.12,000/- as a salary and accordingly, Rs.3,000/- was fixed per Percentage and the compensation was awarded. In respect of the compensation, this Court is of the considered opinion that there is no perversity or infirmity.

7. Accordingly, this Court is not inclined to interfere with the Award. Consequently, the judgment and decree dated 13.10.2015 passed in M.C.O.P.No.87 of 2012 is confirmed and the Civil Miscellaneous Appeal in C.M.A.No.504 of 2016 stands dismissed. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To

1.The Subordinate Judge,
(Motor Accidents Claims Tribunal),
Namakkal.

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

+1 cc to Mr.S.Sankar Advocate sr19656

+1 cc to Mr.S.Arunkumar Advocate sr19358

C.M.A.No.504 of 2016

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