

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.690 of 2016

Selvaraj

...Appellant/Petitioner

Vs

1.Thangaraj

2.The Oriental Insurance Co. Ltd.,
Oriental House, 2nd Floor,
Old No.216, Prakasam Salai,
Broadway,
Chennai 600 108.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.07.2015 made in MCOP.No.10 of 2014 on the file of the Motor Accidents Claims Tribunal and III Court of Small Causes, Chennai.

For Appellant : MS.A.Subadra
for M/s.M.Malar

For Respondents : Mr.D.Bhaskaran for R2
R1-Exparte

J U D G M E N T

(The case has been heard through Video Conferencing)

Heard the learned counsel for the appellant and the learned counsel for the respondent.

2. The case of the appellant is that on 16.10.2013, while he was riding his scooter bearing Registration No.TN04 R 0618 at Santhome High Road, Pattinapakkam near Amma Unavagam, a car bearing Registration No.TN01 Y 1875 driven rash and negligently, hit the two wheeler and caused severe injuries to the claimant. The claimant was admitted in the hospital as inpatient from 16.10.2013 to 21.10.2013. He sustained fracture in left tibia condyle type VI.

3. Petition claiming a sum of Rs.8,00,000/- , was filed on the ground that at the time of accident, the claimant was earning a sum of Rs.10,000/- per month as a trader in Waste Paper. Due to the accident, he was unable to walk and do his normal work. The Tribunal on considering evidence, has awarded a sum of Rs.1,89,105/- as compensation. Not satisfied by the quantum of compensation, the present appeal is filed for enhancement.

4. Learned counsel for the appellant would submit that the Discharge Summary Ex.P3 indicates that the claimant sustained Shatzker's Type VI Tibial Condylar Fracture and the Doctor, who has assessed the disability, has issued a Certificate that the disability is 60% whereas the Tribunal has fixed the disability at 25% and has awarded only Rs.50,000/- for the disability, which requires enhancement. Similarly, for the loss of income, the Tribunal has awarded only Rs.20,000/- whereas for more than five months, the claimant was not able to return to work and his monthly income was above Rs.10,000/-.

5. Learned counsel for the Insurance Company would contend that the claimant was treated as inpatient for six days and there is no medical record to show that he continued treatment thereafter. Further, there is no evidence to show the income of the claimant. Hence, the Tribunal has awarded Rs.20,000/- for loss of income and has rightly taken into consideration the nature of injury and fixed the disability at 25% and paid a sum of Rs.50,000/-.

6. Considering the rival submissions, this Court is of the view that the age fixed by the Tribunal for the disability is correct. However, instead of Rs.2000/- per percentage, it should have awarded Rs.3,000/- for each percentage of disability, since the accident occurred on 16.10.2013. For attendant charges, the Tribunal has not awarded any compensation, which the claimant is entitled. Hence, the award of the Tribunal is enhanced as below:

Compensation under Various Heads	Award passed by this Court
Loss of Income	Rs.20,000/-
Transport to Hospital	Rs. 7,000/-
Extra Nourishment	Rs. 7,000/-
Damage to clothing	Rs. 500/-
Medical Expenses	Rs.74,605/-
Loss of amenities	Rs. 5,000/-

Compensation under Various Heads	Award passed by this Court
Pain and Suffering	Rs.25,000/-
Disability at 25% at Rs.3,000/- per percentage	Rs.75,000/-
Attendant Charges	Rs. 3,000/-
Total	Rs.2,17,105/-
Rounded off to	Rs.2,17,200/-

The said amount shall carry interest at the rate of 7.5% p.a. from 02.01.2014 till the date of deposit. The respondent is directed to deposit the money within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant shall withdraw the same on application.

7. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No order as to costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vri

To

1.The III Judge,
Motor Accidents Claims Tribunal
Small Causes Court,
Chennai.

Copy to: The Section Officer,
VR Section, High Court, Madras.

+1cc to M/s.M.Malar, Advocate, S.R.No.35588

CMA NO.690 OF 2016

SSD(CO)
CB(21/04/2021)