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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.721 of 2016

Srinivasan

...Appellant/Petitioner

Vs

1.Sirarthanan

2.The Manager,
M/s.United India Insurance Company,
70, NSC Bose Road,
Sowcarpet, Chennai 79.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.08.2010 made in M.C.O.P.No.65 of 2009 on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Thiruvallur.

For Appellant : Mr.D.Baskar

For Respondents : Mr.R.Vijaya Kamala for R2
R1- No Appearance

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 Insurance Company.

2. The appeal is filed for enhancement of compensation. The claimant, while travelling in his motor cycle bearing Registration No.TN 02 E 9290 on 19.04.2008 near Material Mechanical Centre, Constable Road, Loco Works, the first respondent dashed against the claimant vehicle and caused accident. In the said accident, the claimant sustained fracture of tibia and fabula on right leg apart from other injuries. At the time of accident, the claimant was working as an Auditor and earning Rs.10,000/- per month. Due to the accident, he was admitted in the hospital as inpatient for six days and surgery

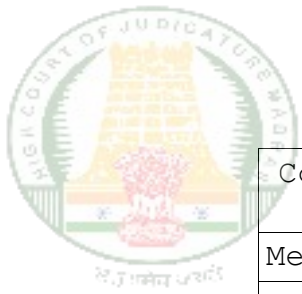


3. Before the Tribunal, the claimant has marked 14 Exhibits and had examined the Doctor, who gave the Disability Certificate. Considering the evidence, the Tribunal has awarded a sum of Rs.1,25,000/- as compensation.

5. Per contra, the learned counsel for the Insurance Company would submit that the claimant has not filed any valid documents to prove his avocation. As far as the medical expenses is concerned, based on Exs.P11 and 12, the Tribunal has taken the face value of the Disability Certificate given by P.W.2 who is not the Doctor treated the claimant and awarded Rs.55,000/- for the disability. Besides, the Tribunal has awarded Rs.10,000/- towards pain and suffering and Rs.5,000/- for Attender Charges. Since all the necessary damages being compensated, there is no room for further enhancement.

7.This Court, after giving due consideration, is of the view that since the claimant was hospitalised for six days, he would have lost income for a month or two. For that, he should be compensated. Hence, an additional compensation of Rs.10,000/- awarded for loss of income. To that extent, the award of the Tribunal is interfered, enhanced and modified. The award of Rs.1,25,000/- is enhanced to Rs.1,35,000/- with interest at the rate of 7.5%p.a. from the date of petition till the date of realisation. (Excluding 404 days as per the order of this Court in M.P.No.2 of 2013 dated 21.03.2016, while condoning the delay period in preferring the appeal.)

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Compensation under Various Heads	Award passed by this Court
Medical Expenses	Rs.55,000/-
Pain and Suffering	Rs.10,000/-
Attender Charges	Rs. 5,000/-
Loss of income during treatment period	Rs.10,000/-
Total	Rs.1,35,000/-

The respondent Insurance Company 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.

6. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

vri

To

1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Thiruvallur.

2.The Section Officer,
V.R.Section, High Court,
Madras-104.

+1cc to M/s.R.Vijaya Kamala, Advocate, S.R.No.35548

CMA NO.721 OF 2016

NRL(CO)
CB(19/08/2021)