

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A. No.920 of 2018

Vadivel

.. Appellant/Petitioner

Vs.

1.Rajendran

(R1 remained exparte before the Tribunal
hence his presence may be dispensed with)

2.The Divisional Manager,

United India Insurance Co.Ltd.,
No.46, Katpadi Road,
Vellore.

.. Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 06.08.2014 and made in M.A.C.T.O.P.No.42 of 2004 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge, Thiruvannamalai.

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

For Respondents : R1 - Exparte
R2 - Mr. J.Chandran

J U D G M E N T

This appeal is filed against the judgment and decree dated 06.08.2014 passed in M.A.C.T.O.P. No. 42 of 2004 seeking enhancement of compensation.

2. The accident occurred on 08.04.2002 at about 09.45 p.m. at Thiruvannamalai to Thandarampattu Main Road near Melchettipattu M.G.S. Rice Mill. On account of the accident, the claimant sustained grievous injury and the claim petition was filed claiming compensation of Rs.4,00,000/-. The Tribunal adjudicated the issues with reference to the documents as well as the evidences produced by the respective parties. The

Tribunal arrived a conclusion that the accident occurred on account of the rash and negligent driving of the vehicle of the first respondent /Auto driver. As far as the liability is concerned, the Tribunal found that there is a coverage. Accordingly, the insurance company is liable to pay compensation.

3. The learned counsel appearing for the appellant/claimant, mainly contended that the quantum of compensation fixed by the Tribunal is inadequate and not in commensuration with the nature of injury sustained by the claimant. Thus, the compensation requires to be enhanced. It is contended that the Tribunal is not considered the compensation for attender charges and loss of amenities and this apart, the loss of income during the period of treatment was also not considered properly. The claimant was admitted in the hospital as inpatient and taking treatment for about 155 days and therefore, under the head of loss of income also enhancement is to be granted. In view of the facts and circumstances, the compensation awarded by the Tribunal is enhanced as detailed belows:-

01	Loss of income	30,000/-
02	Transportation charges	10,000/-
03	Extra Nourishment	10,000/-
04	For Mental Agony	30,000/-
05	Permanent disability (60X2000)	1,20,000/-
06	Loss of amenities	15,000/-
07	Attender Charges	10,000/-
	Total	2,25,000/-

Thus, the total compensation payable to the claimant is Rs.2,25,000/-. The second respondent /insurance company is directed to deposit the entire compensation along with interest @ 7.5% p.a., if not already deposited, within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the claimant shall be permitted to withdraw the said amount by filing an appropriate application and the payments are to be made only through RTGS. The claimants are liable to pay court fee for the enhanced compensation amount.

4. With this modification, the judgment and decree dated 06.08.2014 passed in M.AC.T.O.P. No. 42 of 2004 is set aside and this Civil Miscellaneous Appeal stands partly allowed. No costs. The pay and recovery order has already been passed by the Tribunal to recover the compensation from the owner of the

vehicle. The said order of pay and recovery stands confirmed. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/
Sub Asst. Registrar

may
To

1.The Additional Sub Judge,
Motor Accidents Claims Tribunal,
Thiruvannamalai.

Copy to

The Section Officer
VR Section,
High Court, Madras

+1 cc to Ms.M.Malar Advocate sr23918
+1 cc to Mr.J.Chandran Advocate sr23472

C.M.A.No.920 of 2018

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