

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A. No. 2358 of 2017

Dhamodharan

... Appellant /Petitioner

Vs.

1. S.Ramalingam

2. Sriram General Insurance Co. Ltd.
Branch Office
Villupuram.

3. S.Sankar Ganesh

4. Iffco Tokio General Insurance Co. Ltd.
Branch Office
Pondicherry.

... Respondents/Respondents

(R1-exparte in the tribunal
RR3&4 were given up)

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P. No. 332 of 2014 dated 18.04.2017 on the file of the Special Subordinate Judge - II, (Motor Accidents Claims Tribunal), Villupuram.

For Appellant : Mr. Arundattan

For Mr. C.Munusamy

For Respondents : R1- Exparte

Mr. K.Poomalai (For R2)

R3 & R4 - Given up

O R D E R

The appeal is filed by the claimant against the judgment and decree dated 18.04.2017 passed in M.C.O.P. No. 332 of 2014.

2. The accident occurred on 18.04.2017 at about 9.00 p.m. near Pumari Village, Sankarapuram Main Road and S.H.O. Thirupalapandal Police Station registered a case in Crime No. 220 of 2012. The claim petition filed by the appellant reveals that he has sustained grievous injury in head, shoulder, left and right leg, and all over body. The claim petition was filed seeking a compensation of Rs.20,00,000/- and the Tribunal

adjudicated the issue and arrived at a conclusion that the policy coverage was established by the claimants and therefore, the Tribunal fixed the liability on the second respondent / insurance company.

3. The learned counsel appearing on behalf of the appellant, mainly contended that the nature of the injury sustained by the appellant /claimant is grievous in nature and even the Doctor assessed the disability as 40% permanent disability, in respect of 40% permanent disability, the Tribunal ought to have considered compensation by applying multiplier. However, the Tribunal has not granted adequate compensation in this regard and thus, the appellant is constrained to institute the present appeal.

4. The learned counsel appearing on behalf of the appellant/claimant has disputed the contention by stating that the nature of the injury is non-scheduled injury and therefore, multiplier need not be applied. It is a fracture, which is established and therefore, the Tribunal has rightly assessed the quantum of compensation and there is no infirmity as such.

5. This Court is of the considered opinion that the appellant / claimant sustained fracture, which caused permanent disability, which was assessed by the Doctor as 40%. This apart, the appellant at the time of accident was aged about 35 years and he was working as a Labour in a mechanic shop.

6. This being the factum, the Tribunal has fixed the monthly income as Rs.6,000/- per month. Though this Court has not found any infirmity in respect of monthly income is as Rs.6,000/- per month, the Tribunal ought to have granted some more compensation towards disability as 40%, which is a permanent disability as per the Doctor's report.

7. This Court is inclined to enhance the compensation as detailed hereunder:-

1. For pain and sufferings	Rs. 40,000/-
2. Loss of income (12,000X6 months)	Rs. 72,000/-
3. For Extra Nourishment	Rs. 20,000/-
4. For Medical Expenses	Rs. 1,04,100/-
5. Damages to Cloths	Rs. 1,000/-
6. Transportation	Rs. 15,000/-
7. Permanent Disability	Rs. 1,60,000/-
8. For attender	Rs. 25,000/-
Total	Rs. 4,37,100/-

The total compensation payable to the appellant is Rs.4,37,100/-.

8. The learned counsel appearing on behalf of the second respondent/ insurance company directed to deposit the entire award amount with interest 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 claimant is permitted to withdraw the entire award amount by filing an appropriate application and the payments are to be made only through RTGS. The claimant is liable to pay court fee for the enhanced compensation amount.

9. With this modification, the judgment and decree dated 18.04.2017 passed in M.C.O.P. No. 332 of 2014 is quashed and accordingly, the Civil Miscellaneous Appeal stands allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.Motor Accidents Claims Tribunal
The Special Subordinate Judge No.II
Villupuram.

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

+1 cc to M/s.C.Munusamy, Advocate Sr.No. 21618
+1 cc to M/s.K.Poomalai, Advocate Sr.No. 21418

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EV(CO)
RMP(04/01/2021)

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