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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2020

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

C.M.A. No.2453 of 2017

R.Pitchandi

... Appellant

Versus

1. R.P.Sivakumar

2. Reliance General Insurance Company Ltd.,
Heavi Tree, Unit No.I, 3rd floor,
23, Spur Tank Road,
Chennai - 600 031.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P. No.2837 of 2007 on the file of XVII Additional District & Sessions Judge, Small Causes Court at Chennai.

For Appellant : Mr. T.G.Balachandran

For Respondents : 1 : Ex-parte
2 : Mr. S.Arunkumar

JUDGMENT

This appeal is preferred by the claimant himself as against the award of XVII Additional Judge in M.C.O.P. No.2837 of 2007.

2. It is not in dispute that in the accident took place on 06.07.2007, and the appellant / claimant suffered grievous injuries. It is admitted that the claimant suffered a fracture in his left hip. Stating that the appellant was a fishing cart driver, a sum of Rs.3,00,000/- was claimed as compensation for the injuries suffered by the appellant. The tribunal awarded a sum of Rs.88,370/- in all as compensation for the appellant. Aggrieved by the quantum of compensation awarded by the Tribunal, the above appeal is preferred.

3. Learned counsel for the appellant submitted that the functional disability of the appellant was not considered by the Tribunal and that a sum of Rs.60,000/- was awarded by accepting



40% disability and a sum of Rs.1,500/- was given for 1% disability.

4. Learned counsel for the second respondent contended that the petitioner's disability was not assessed properly and that the claimant has not let in any further evidence to show that the functional disability of the claimant will be above 40%.

5. It is seen that the Tribunal has taken the loss of earning would be Rs.6,000/- per month. This Court is of the view that the claimant is entitled to a sum of Rs.5,000/- towards transport and hospital expenses and a sum of Rs.10,000/- towards extra nourishment and the claimant is also entitled to a sum of Rs.20,000/- towards attendant charges since he suffered fracture in his left hip. It is admitted that the claimant had spent some amount towards medical treatment. Under the head of Loss of amenity and Pain and suffering, this Court is inclined to award a sum of Rs.20,000/-.

6. This Court is inclined to take the petitioner's monthly income as Rs.6,000/- as he was doing a permanent job as fish cart driver. Since the appellant suffered a fracture in his hip, two month's income can be allowed towards loss of earning. Taking into account his permanent functional disability, this Court is inclined to enhance the award amount by a sum of Rs.2,00,000/-. In other words, the compensation payable to the appellant is Rs.2,88,370/-. The appellant has already waived interest for a period of 110 days for filing the appeal with delay. Since the appeal was filed with a delay of 110 days, and the appellant has already waived interest he is not entitled to interest for a period of 110 days. In all the appellant is entitled to an additional sum of Rs.2,00,000/- (Rupees Two Lakhs Only) along with interest at 7.5% (deducting interest for 110 days). The Second respondent is directed to pay a sum of Rs.2,00,000/- in addition to the amount awarded by the Tribunal within a period of four weeks from the date of receipt of a copy of this order. On such deposit the appellant is permitted to withdraw the same.

7. This Civil Miscellaneous Appeal is allowed and the award of XVII Additional District & Sessions Judge, Small Causes Court, Chennai, in M.C.O.P. No.2837 of 2007 is modified to the extent indicated above.

Sd/-

Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

bkn



To

The XVII Additional District & Sessions Judge,
Small Causes Court,
Chennai.

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Copy To

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

+1cc to Mr.T.G.Balachandran, Advocate, S.R.No.38174

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.38013

C.M.A. No.2453 of 2017

SSV(CO)
GMY(24/08/2021)