

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.643 of 2017

M.Chandramouli

.. Appellant

Vs.

1. S.Don Bosco

2. Royal Sundaram Alliance Insurance Co Ltd.,
No.46, Whites Road,
Royapettah,
Chennai - 600 014.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 28.06.2016 made in M.C.O.P.No.3591 of 2010 on the file of Motor Accident Claims Tribunal, (Special Sub Court No.I), Chennai.

For Appellant : Mr.R.Varadha Kamaraj

For Respondents: No appearance [For R1]

Mr.M.Krishnamoorthy [For R2]

JUDGMENT

This appeal is filed against the judgment and decree dated 28.06.2016 passed in M.C.O.P. No. 3591 of 2010 seeking enhancement of compensation.

2. The accident occurred on 23.5.2010 at about 16.30 hours, at Gandhi Irwin Road near Rail Kalyana Mandapam, Chennai.

3. The appellant sustained serious injury, fracture right humerus, fracture right radius, radial nerve palsy, multiple fractures of phalanx. Crush injury right hand, head injury and multiple injuries all over the body.

4. The claim petition was filed seeking compensation of Rs.11,50,000. The Tribunal adjudicated the issue and found that the claim regarding the accident was established and the insurance company is held to be liable to pay compensation. While considering the quantum of compensation the Tribunal considered the disability as well as the grievousness of the injury. The Tribunal granted a total compensation of Rs. 3,85,000/-.

5. The learned counsel appearing for the appellant mainly contended that the compensation under the heads of loss of earning, conveyance expenses, extra nourishment charges and attender charges were not properly considered by the Tribunal. The learned counsel appearing for the appellant made a submission that it is a fit case to apply multiplier.

6. This court is of the opinion that whether multiplier or other method is to be applied. Ultimately, the Court has to find out whether the fair compensation has been awarded to the victim or not. It is not the matter of application of method and it is a matter of fair compensation to be arrived and to be paid to the claimants.

7. The learned counsel appearing on behalf of the respondent /insurance company also reiterated that it is a partial permanent disability. No doubt the claimant is unable to use his right hand effectively. However, the Tribunal granted a compensation of Rs. 3,85,000/-, which cannot be said to be unreasonable. Therefore, there is no further enhancement is required.

8. This court is of the opinion that the claimant is unable to use his right hand for lifting any article and therefore, the compensation awarded for extra nourishment, attender charges and conveyance are to be enhanced little more.

9. Undoubtedly, it is a partial permanent disability. However, the disability in such a case, wherein the claimant is unable to use his right hand, this Court is inclined to enhance the compensation as hereunder:-

- (1) Expenses relating to treatment,
hospitalization and medicines Rs. 93,000/-
- (2) Loss of earning during treatment Rs. 75,000/-
- (3) Expenses towards conveyance Rs. 20,000/-
- (4) Extra Nourishment cost Rs. 20,000/-
- (5) Attender charges Rs. 20,000/-
- (6) Compensation for disability Rs.
1,35,000/-
- (7) Damages to clothing and articles Rs. 1,000/-
- (8) Pain and sufferings Rs. 50,000/-

(9) Compensation for loss of future

Amenities expectation in life and

for disfigurement

Rs. 75,000/-

Total

Rs. 4,89,000/-

10. The total compensation payable to the appellant / claimant is Rs.4,89,000/-. The respondent/insurance company is directed to deposit the enhanced compensation along with interest at 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 appellant/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 appellant/claimant is liable to pay court fee for the enhanced compensation amount.

11. With this modification, the judgment and decree dated 28.06.2016 passed in M.C.O.P. No. 3591 of 2010 is set aside and this Civil Miscellaneous Appeal stands allowed. No costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

Maya

To

1.The Special Sub Court No.I
(Motor Accidents Claims Tribunal),
Chennai

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

C.M.A.No.643 of 2017

RLD(CO)
SP(20/08/2020)