



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1575 of 2020

K.Pannerselvam
S/o.Kumar

... Appellant/Petitioner

Vs.

1. Ramani Prabhakaran
2. United India Insurance Company Ltd.,
Siligi Building, 4th Floor,
No.134, Greams Road,
Chennai 600 006.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 13.11.2018 made in M.A.C.T.O.P.No.5860 of 2016, on the file of the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai.

For Appellant	: Mr.A.G.F.Terry Chella Raja
For Respondents	:
For R1	: Exparte
For R2	: Mr.M.J.Vijayaraghavan

JUDGMENT

The claimant is the appellant in this appeal and is aggrieved by the impugned Judgment and decree dated 13.11.2018 passed by the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai in M.A.C.T.O.P.No.5860 of 2016.

2. By the impugned Judgment and decree, the Tribunal has awarded a sum of Rs.1,78,640/- as compensation for the following injuries under the following heads:-

Injuries suffered by the appellant/claimant:-

- (i) Grade-I open fracture neck of 4th & 5th metatarsal left foot.
- (ii) Superficial raw area over dorsum of forefoot.
- (iii) Puncture wound over dorsum of left foot.
- (iv) K-wire fixation.



- (v) Skin grafting.
- (vi) Sever hearing injuruy.
- (vii) Multiple injuries of all over the body.

Amount of Compensation awarded by the Tribunal:-

Sl. No.	Heads of Compensation	Amount Awarded by the Tribunal
1.	Disability	Rs. 60,000/-
2.	Pain and Suffering	Rs. 30,000/-
3.	Extra Nourishment	Rs. 10,000/-
4.	Transport to Hospital	Rs. 10,000/-
5.	Damages to Clothes	Rs. 1,000/-
6.	Attender Charges	Rs. 13,500/-
7.	Medical Expenses	Rs. 29,140/-
8.	Loss of Income	Rs. 15,000/-
9.	Loss of Amenities	Rs. 10,000/-
	Total	Rs.1,78,640/- Rounded off to Rs.1,78,700/-

3. The learned counsel for the appellant/claimant submits that the Tribunal has erred in suo motu reducing the disability from 30% to 20% and awarded the same at Rs.3,000/- per percentage. It is further submitted that the appellant/claimant was admitted in the hospital for a period of 27 days and has undergone surgery.

4. The Tribunal has failed to note the relevant factums for awarding compensation. It is further submitted that this Court ought to have awarded compensation at Rs.5,000/- per percentage. Therefore, the compensation awarded towards disability has to be increased from Rs.60,000/- to Rs.90,000/- i.e., Rs.3,000/-x30%.

5. Defending the impugned Judgment and decree, the learned counsel for the 2nd respondent/Insurance Company submitted that the Tribunal has awarded a just compensation. It is further submitted that as per the 2nd schedule, Sl.No.43 of the Workmen's Compensation Act, 1923, the compensation payable to the worker is much lower. He further submits that the appellant/claimant was directed to approach the Medical Board to assess the disability. The appellant however failed to appear before the Medical Board. Instead of he has produced P.W.2 as a witness who is a private physician.



6. Heard the learned counsel for the appellant and the 2nd respondent.

7. In my view, the nature of injuries that has been described above has not resulted any permanent/partial disability. Therefore, the Tribunal has by and large come to a fair conclusion while awarding a fair compensation barring a reduction of disability assessed at 30% to 20%. Though there is no disability, nevertheless, the injuries suffered by the appellant/claimant are grievous in nature and therefore the appellant deserves to suitably compensated.

8. Under these circumstances, there shall be a further enhancement of Rs.30,000/- by considering the notional income of Rs.3,000/- per percentage for 30% disability. As far as the other heads are concerned, the compensation awarded by the Tribunal is reasonable and therefore they are confirmed.

9. Therefore, the amount of compensation awarded by the Tribunal is re-quantified as follows:-

Heads and calculation	Amount
Disability at 30%	Rs. 90,000/- (Rs.3,000x30%)
Pain and Suffering	Rs. 30,000/-
Extra Nourishment	Rs. 10,000/-
Transport to Hospital	Rs. 10,000/-
Damages to Clothes	Rs. 1,000/-
Attender Charges	Rs. 13,500/-
Medical Expenses	Rs. 29,140/-
Loss of Income	Rs. 15,000/-
Loss of Amenities	Rs. 10,000/-
Total	Rs. 2,08,640/-

10. The 2nd respondent/Insurance Company is directed to deposit the above re-quantified amount of compensation of Rs.2,08,640/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

11. On such deposit being made by the 2nd respondent/Insurance Company, the appellant/claimant is permitted to withdraw the same together with interest accrued thereon, less



any amount already withdrawn in the same proportion as was ordered by the Tribunal.

12. This Civil Miscellaneous Appeal stands partly allowed.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. The Motor Accidents Claims Tribunal,
VI Court of Small Causes,
Chennai.
2. The Section Officer,
Vernacular Section,
Madras High Court.

+1CC to Mr.M.Malar, Advocate, Sr.No.25423

C.M.A.No.1575 of 2020

AK-1 (CO)

K.RK. (23.11.2021)