



3. The Insurance Company filed a counter stating that the accident occurred due to the negligence of the moped rider and the claimant was travelling as a pillion rider has not sustained serious injury to compensate Rs.6,00,000/-.

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4. The Tribunal after considering the evidence let in by the claimants had held that the moped rider had no valid driving license, hence, he has contributed the accident. Therefore, deducting 10% towards the contributory negligence in the award and fixed compensation of Rs.88,746.30 rounded off Rs.89,000/-. Taking into account the injury sustained by the claimant, the Tribunal fixed 10% disability.

5. The learned counsel for the appellant would submit that the claimant sustained head injury and was hospitalised for nearly 10 days, he has lost substantial income during the treatment period. While the doctor has assessed 30% disability, the Tribunal drastically reduced 10% without any justifiable cause. Therefore, the compensation should be enhanced and also deduction 10% of the award amount for contributory negligence of the rider is incorrect. Hence, there should not be any deduction on the above head in the claim petition filed by the pillion rider.

6. The disability summary marked as Ex.P-1 reveals the nature of the injury sustained by the claimant and the same has been extracted by the Tribunal in its order. For convenience sake of the same is reproduced below:

“(viii) As per Ex.P1 Discharge summary the petitioner/injured was thoroughly examined at Government General Hospital at Ortho Department and Neuro Department. X ray left knee AP and Lateral and CT spine and CT scan brain have been taken and all the examinations report were considered by the specially specific field Doctors and it was mentioned by the Ortho Department that based upon the X ray for knee and CT for spine, it has been mentioned no bone injury and has been stated that NIL, active Orthopaedic management required. Like wise, by the Department of Neurology and Nuero surgery, the CT scan brain was studied and found normal and held NIL active Nuero surgeon management required. The petitioner/injured was instructed to take 3 kind of medicines and advised at the time of discharge to continue the above three medicines and advised to attend ortho department on Wednesday and Saturday if necessary. The



To

The Motor Accidents Claims Tribunal,
VI Court of Small Causes,
Chennai.

Copy To

The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.S.Sathish Rajan, Advocate, S.R.No.9630

+1cc to Mrs.Elveera Ravindran, Advocate, S.R.No.9379

C.M.A.No.1828 of 2018

SSI (CO)
RGA(14/09/2021)