



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A.NO.1355 OF 2020

AND

C.M.P.NO.15091 OF 2021

Sathish Kumar

... Appellant

.Vs.

1. Subramani

2. M/s.United India Insurance Company Ltd.,
Regional Office, Silingi Buildings,
New No.134, Old No.40-42,
Greens Road, Chennai - 600 006.

... Respondents

PRAYER:-

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.1952 of 2017 dated 07.01.2020 on the file of the Motor Accidents Claims Tribunal, IV-Judge, Small Causes Court, Chennai.

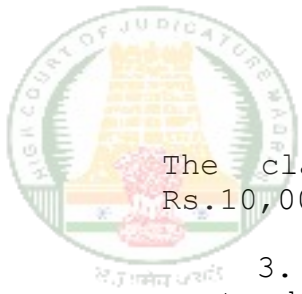
For Appellant : Mr.R.Mohan Babu

For Respondents : Mr.D.Bhaskaran
For R2

J U D G M E N T

The claimant, who had suffered injuries in a motor accident that occurred on 17.03.2017 is before this Court by way of an appeal, seeking enhancement of the compensation awarded in MCOP.No.1952 of 2017 on the file of the IV-Judge, Small Causes Court, Chennai.

2. As a result of the accident, the claimant suffered greivous injuries on the left shoulder and he was operated upon, implants are also made. According to the learned counsel for the appellant, even now, the claimant is in and out of hospital.



The claimant assessed the compensation payable to him at Rs.10,00,000/-.

3. The claim was resisted by the Insurance Company contending that the accident occurred due to the rash and negligent driving of the car, in which, the claimant was travelling. The quantum of compensation claimed was also termed as excessive. At trial, the claimant was examined as P.W.1 and Exs.P1 to P9 were marked. Neither oral nor documentary evidence was produced on the side of the Insurance Company. The claimant was referred to the Medical Board and disability certificate issued by the Medical Board was marked as Ex.C1. The Tribunal fixed the compensation payable to the claimant under various heads as follows:

S.No.	Heads	Amount
1	Disability	Rs.27,000/-
2	Medical Expenses	Rs.1,25,804/-
3	Loss of Income	Rs.60,000/-
4	Pain and Suffering	Rs.30,000/-
5	Transportation Expenses	Rs.20,000/-
6	Additional Nourishment	Rs.25,000/-
7	Damages to Clothes	Rs.1,000/-
8	Attender Charges	Rs.6,300/-
9	Loss of Amenities	Rs.25,000/-
	Total	Rs.3,20,104/-
	Rounded off	Rs.3,20,100/-

4. I have heard Mr.R.Mohan Babu, learned counsel appearing for the Appellant and Mr.D.Bhaskaran, learned counsel appearing for the respondent/Insurance Company.

5. Mr.R.Mohan Babu would contend that the Tribunal was not right in fixing the compensation for disability on a percentage basis. He would contend that the Tribunal should have adopted the multiplier method. He would also contend that the award of Rs.30,000/- towards pain and suffering is very low. It is his contention that the award of Rs.60,000/- towards loss of income is also on the lower side. The claimant has also filed CMP.No.15091 of 2021 seeking to produce additional evidence. The document that is sought to be produced is the discharge summary issued by the Department of Orthopaedics, Government Stanley Hospital and College, Chennai - 600 001, which shows that the claimant was admitted as an inpatient on 26.07.2021 and



after undergoing a procedure for removal of the implants, the claimant was discharged on 30.07.2021.

6. Considering the fact that such document could not have been produced during the pendency of the original petition before the Motor Accident Claims Tribunal and the treatment taken by him relates to the injury suffered by him during the accident, I find that the document should be received as additional evidence under Order 41 Rule 27 of C.P.C., since it would be useful for arriving at the just compensation. Therefore, the CMP.No.15091 of 2021 is allowed, the discharge summary produced is received as additional evidence and marked as Ex.P10.

7. Adverting to the quantum of compensation, I am unable to accept the contention of the learned counsel for the appellant that the Tribunal should have adopted the multiplier method. The claimant was working as an Escort Officer, there is no evidence to show that the 9% disability suffered by him is led to his being disabled from doing any work in future. To put it otherwise, there is no evidence of any functional disability. Therefore, the Tribunal was right in rejecting the claim that the multiplier method should be adopted in assessing the compensation for disability. I therefore, uphold the conclusion of the Tribunal in adopting the percentage method for assessing the compensation. The Tribunal has granted Rs.3,000/- per percentage of disability. The accident had occurred in 2017 and the claimant was aged only 30 years at that time. I am therefore, of the considered opinion, that a sum of Rs.5,000/- per percentage of disability would be just and reasonable. The sum of Rs.5,000/- is arrived at, based on the age of the claimant and the date of the accident. If Rs.5,000/- is taken as compensation per percentage of disability, the compensation awarded under the head of disability should be increased to Rs.45,000/- from of Rs.27,000/-.

8. The Tribunal has awarded Rs.30,000/- towards pain and suffering. Admittedly, the claimant was an inpatient about 23 days prior to the filing of the original petition and now after the filing of the original petition, as per Ex.P10, the claimant was an inpatient for about 5 days. The total period of hospitalization is about 28 days. Considering the length of hospitalization, I am of the considered opinion that grant of Rs.30,000/- for pain and suffering is on the lower side and it is enhanced to Rs.50,000/-. In fixing those Rs.50,000/-, I also taken into account the award of Rs.25,000/- towards loss of amenities, which is not an usual award in a non-serious injury case. The Tribunal has awarded Rs.6,300/- towards attender charges and the same is enhanced to Rs.16,300/-, considering the period of hospitalization. The other heads of compensation



granted by the Tribunal are confirmed. In view of the same, the award of the Tribunal is modified as follows:-

S.No.	Heads	Amount
1	Disability	Rs.45,000/-
2	Medical Expenses	Rs.1,25,804/-
3	Pain and Suffering	Rs.50,000/-
4	Additional Nourishment	Rs.25,000/-
5	Attender Charges	Rs.16,300/-
6	Loss of Income	Rs.60,000/-
7	Transportation Expenses	Rs.20,000/-
8	Damages to Clothes	Rs.1,000/-
9	Loss of Amenities	Rs.25,000/-
	Total	Rs.3,68,104/-
	Rounded Off to	Rs.3,70,000/-

9. In fine, this appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claim Tribunal,
(IV - Court of Small Causes),
Chennai.

+1cc to Mr.R.Mohan Babu, Advocate, S.R.No.61626

C.M.A.NO.1355 OF 2020 AND
C.M.P.NO.15091 OF 2021

SS (CO)
PBS/05/04/2022