



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3874 of 2019

P.Muthu

...Appellant

Vs.

1.C.Sadasivan

2.S.P.Loganathan

3.SBI General Insurance Company Limited,

No.104, 2nd Floor,

Excellence Building,

Rase House, Coimbatore - 18.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decreetal order dated 21.11.2017 passed in M.C.O.P.No.1007 of 2013 by the Motor Accident Claims Tribunal, (I Additional District Court), Tiruppur.

For Appellant : Mr.S.Kaithamalai Kumaran

For Respondents: M/s.M.B.Gopalan Associates for

Mr.B.Raghavan for R3

R1 - No Appearance

R2 - Left

JUDGMENT

The appellant is the claimant in this appeal before the Motor Accidents Claims Tribunal, (I Additional District Court), Tiruppur in M.C.O.P.No.1007 of 2013 and is aggrieved by the impugned judgment and decree dated 21.11.2017 and has filed the present appeal for enhancement of compensation.

2.By the impugned Judgment and decree, the Tribunal has awarded a sum of Rs.3,60,000/- as compensation for the injuries suffered by the appellant has detailed below:-

Particulars	Rs.
Disability	Rs.1,20,000/-
Pain and suffering	Rs. 25,000/-



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Medical expenses as per Bill (Ex.P.22)	Rs. 13,000/-
Attendant Charges	Rs. 10,000/-
Transport Expenses	Rs. 10,000/-
Nutrition	Rs. 10,000/-
Total	Rs.1,88,000/-

3.The learned counsel for the appellant submits that the evidence on record namely the deposition of P.W.2 and Ex.P.13 permanent disability clearly brings out the nature of injury suffered by the appellant and the extent of Permanent disability.

4.It is submitted that the Tribunal ought not to have reduced the permanent disability assessed to 40% from 48.11% assessed by the P.W.2 in Ex.P.13. He therefore prays for enhancement of compensation. He further submits that the appellant by avocation was driver and therefore the Tribunal ought to have applied multiplier as per the decision of the Hon'ble Supreme Court in Raj Kumar Vs Ajay Kumar and another, (2011) 1 SCC 343.

5.The learned counsel for the appellant further submits that the Tribunal has also not awarded any amount towards loss of income and other conventional heads.

6.Defending the impugned judgment and decree, the learned counsel for the 3rd respondent/Insurance Company submits that the impugned judgment and decree is well reasoned and requires no interference. He further submits that P.W.2 was not the decision who gave the treatment to the appellant and therefore the assessment of permanent disability at 48.11% was exaggerated and therefore the Tribunal has rightly restricted the permanent disability at 40% has awarded a sum of Rs.1,20,000/- towards disability. He therefore submits that the appeal filed by the appellant is liable to be dismissed.

7.Heard the learned counsel for the appellant and the respondent.

8.The evidence on record indicates the nature of injuries suffered by the appellant. Ex.P.13 marked through the P.W.2 indicates that the appellant had suffered partial permanent disability at 48.11%. The nature of injuries suffered by the appellant indicates that the injuries which was serious in nature and as much as the appellant has suffered following injuries:-

- 1.Left leg Ankle Fracture
- 2.Forehead scalp fracture
- 3.Right leg burn injury



9. Though the expert examined stated that the nature of injuries stated by the appellant resulted as partial permanent disability, the nature of injuries suffered there was no functional disability to award a higher compensation applying multiplier. At the same time, the compensation awarded by the Tribunal for the injuries suffered by the appellant appears to be slightly low and therefore the amount awarded by the Tribunal is enhanced and re-computed as follows:-

Particulars	Rs.
Disability (3000X48.11)	Rs.1,44,330/-
Pain and suffering	Rs. 25,000/-
Medical expenses as per Bill (Ex.P.10)	Rs. 13,000/-
Attendant Charges	Rs. 10,000/-
Transport Expenses	Rs. 10,000/-
Nutrition	Rs. 10,000/-
Loss of Income (7000X6)	Rs. 42,000/-
Loss of Amenities	Rs. 10,000/-
Total	Rs.2,64,330/-

10. The 3rd respondent/Insurance Company is therefore directed to deposit enhancement of compensation of Rs.2,64,330/- 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 3rd 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. Accordingly, this appeal stands partly allowed in terms of above observations. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



1.SBI General Insurance Company Limited,
No.104, 2nd Floor,
Excellence Building,
Rase House, Coimbatore - 18.

2.The Motor Accident Claim Tribunal,
(I Additional District Court), Tiruppur.

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

+1 CC to Mr.S.Kaithamalai Kumaran, Advocate sr 23318.

C.M.A.No.3874 of 2019

GSM(CO)
SP(16/11/2021)