



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.06.2021

Pronounced on : 30.06.2021

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A. (MD) .709 of 2020

T.Vivek @ Vivek Kumar

:Claimant/Appellant/claimant

Vs.

1.Abbas Manthiri
S/o.Allapitchai

2.The Divisional Manager,
The New India Assurance Company Limited,
No.248-B, Kamarajar Salai,
Madurai-625 009.

3.N.Dinesh
S/o.Nagusamy

:Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, as against M.C.O.P.No.60 of 2017 on the file of Special Sub-Judge/Motor Accident Claims Tribunal, Madurai dated 05.08.2020 for enhancement of compensation.

For Appellant : Mr.K.Kumaravel

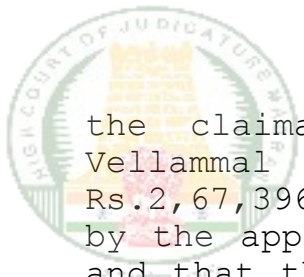
For Respondents : Mr.A.Balaji

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the award in M.C.O.P.No.60 of 2017, dated 05.08.2020, on the file of the Motor Accident Claims Tribunal/ Sub-Judge, Madurai.

2.The appellant/claimant, who was awarded a compensation of Rs.3,99,000/- with interest at 7.5% per annum for the disability suffered, consequent to the accident occurred on 30.03.2016, challenged the quantum of compensation awarded by the Tribunal and claimed enhancement of the same.

3.The learned counsel for the appellant would submit that the claimant suffered grievous injuries on left fore-head and a bone was fractured and consequently, there was a blood clot in his head, that



the claimant took treatment from 31.03.2016 to 07.05.2016 in Vellammal Hospital, Madurai and that the claimant has spent Rs.2,67,396/- towards medical expenses, that the injuries sustained by the appellant will cause head ache, speech problem, memory loss and that the appellant is unable to do any work, that the claimant is aged about 23 years and his marital status will be affected and that since the trial Court has awarded very low compensation, the claimant was forced to file the present appeal for enhancement.

4. It is pertinent to mention that the Medical Board attached to the Rajaji Government Hospital, Madurai, after examining the claimant, had issued Ex.A1/disability certificate and whereunder they have fixed the disability of the claimant at 10%. The learned Tribunal by observing that only in the case of loss of earning power due to functional disability, the multiplier method is to be adopted and on considering the nature of injuries and the disability suffered, the tribunal has awarded a sum of Rs.5,000/- per percentage of disability and granted Rs.50,000/- towards disability. The appellant has alleged that he is having lot of problems consequent to the head injury, but he has not produced any evidence to substantiate the same. Hence, the finding of the Tribunal in awarding a sum of Rs.50,000/- towards disability cannot be found fault with.

5.The learned counsel for the appellant would submit that due to the disability suffered and consequent problems, he has lost his marriage prospects and that the tribunal has not awarded any amount in this regard. Admittedly, the petitioner has not produced any material or evidence to show that he became unfit to get married. In the absence of any evidence, the appellant is not entitled to get any compensation on that account.

6. Admittedly, the claimant was admitted in the hospital as an in-patient on 30.03.2016 and was discharged on 07.05.2016. Considering the nature of injuries and the consequent disability and also the period of treatment, this Court is of the view that the amount granted under the heads of Extra Nourishment, Attender charges, Damages to clothes and articles and transportation are on lower side and the same are to be enhanced. Accordingly, this Court decides that the claimant is entitled to get a sum of Rs.30,000/- towards Extra Nourishment, Rs.20,000/- towards Attender Charges, Rs.5,000/- towards Damages to clothes and articles and Rs.20,000/- towards Transportation. Hence, the appellant is entitled to get total compensation of Rs. 4,43,000/- (Rupees Four Lakhs Forty Three Thousand Only).

7.In the result, the Civil Miscellaneous Appeal is allowed and the compensation is enhanced from Rs.3,99,000/- to Rs.4,43,000/- The second respondent is directed to deposit the award amount with interest at 7.5% per annum, along with the enhanced amount, within a



period of one month from the date of receipt of a copy of this judgment, if not already deposited and the appellant is entitled to withdraw the entire amount. There is no order as to costs in the appeal.

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Sd/-

Assistant Registrar (CO)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1. The Special Sub-Judge,
Motor Accident Claims Tribunal,
Madurai
- 2.The Section Officer,
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-20857[F] dated 01/07/2021)

+1 CC to M/s.K.KUMARAVEL, Advocate (SR-20855[F] dated 01/07/2021)

CRL.R.C. (MD) .709 of 2020
30.06.2021

RD(20.07.2021) 3P 6C