



CMA.No.3730 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Civil Miscellaneous Appeal No.3730 of 2011

S.Rangasamy

... Appellant

..Vs..

1. V.K.Elayalvar

2. The New India Assurance Company Ltd.,
No.7, Ramalinga Madalaya Street, Gugai,
Salem – 636 006.

... Respondents

Prayer: This Civil Miscellaneous Appeal has been filed under section 173 of the Motor Vehicles Act 1988 to set aside the Order made in M.C.O.P.No.737 of 2008 on the file of the Motor Accident Claims Tribunal Cum I Additional Sub Court, Salem dated 09.11.2020.

For Appellant : Mr.C.Kulanthaivel

For respondents : Mr.Chandran – R2



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J U D G M E N T

This civil miscellaneous appeal is filed by the appellant/injured claimant praying for enhancement of compensation.

2. The appellant/injured sustained grievous injuries in the accident that occurred on 19.07.2008. For the disability he suffered and the future loss of income, the injured claimed Rs.6,00,000/- before the Tribunal in MCOP.No.737 of 2008.

3. The tribunal, after detailed trial, based on oral and documentary evidence, awarded a sum of Rs.66,000/- to the injured under the following heads:-

- | | |
|--------------------------------------|---------------|
| (i) Loss of income due to disability | : Rs.9,000/- |
| (ii) Transportation | : Rs.5,000/- |
| (iii) Nutritional food | : Rs.5,000/- |
| (iv) Damages to clothes | : Rs.2,000/- |
| (v) Pain and suffering | : Rs.10,000/- |



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(vi) Disability 35%

Per percentage of disability-Rs.1000/- :Rs.35,000/-

Rs.66,000/-

4. The learned counsel for the appellant-injured claimant would submit that as per the evidence of P.W.2-doctor, claimant sustained 35% partial permanent disability and having difficulty in doing his regular work as before and so for the future loss of income and avocation, awarding a reasonable compensation would help the claimant to sustain his entire life time. He would submit that by adopting multiplier method, the claimant could be compensated as he suffered mal union of bones in the right hand.

5. On the other hand, the learned counsel for the 2nd respondent-insurance company would support the compensation awarded by the tribunal and submitted no interference is required in the award.



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6. Heard both sides and perused the award.

7. P.W.2 doctor deposed that appellant-injured sustained two fractures in the right hand and there is mal union and the right hand movement is restricted to considerable extent. The injured is 50 years old and is an agriculturist and also doing mason work and therefore, the fractures and malunion of the same would definitely affect his avocation. Further the deposition of P.W.2 transpired that appellant sustained head injury, injuries in the right shoulder, left thigh and the wound certificate is marked as Ex.A.1. Hence, taking note of the above circumstances, this court deems it fit to award Rs.3000/- per percentage of disability. Accordingly, under the head “partial permanent disability”, $\text{Rs.3000/-} \times 35\% = \text{Rs.1,05,000/-}$ is awarded as compensation. As far as compensation awarded under other heads are concerned, this court finds it just and proper and accordingly, the same are confirmed.

8. In the result, the appeal is party allowed. The compensation of Rs.66,000/- awarded by the Tribunal is now enhanced to Rs.1,36,000/-. The



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award amount will carry interest at the rate of 7.5% p.a., from the date of petition till the date of deposit.

9. The second respondent insurance company is directed to deposit the modified enhanced compensation along with interest and cost, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited. On such deposit, the appellant is permitted to withdraw the same along with interest. No costs.

17.02.2022

Index:yes/no
Internet:yes
vrc/nvsri

To

1.The Motor Accident Claims Tribunal
Cum I Additional Sub Court,
Salem.
2.The Section Officer
V.R.Section
High Court of Madras.

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J.NISHA BANU, J.

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