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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CMA.No.516 of 2017

N.Krishnan

...Appellant/Petitioner

Vs.

1.J.Srinivasan

2.Reliance General Insurance Co. Ltd.

"Heavitree" Union No.1, 3rd Floor,
No.23, Spur Tank Road,
Chetpet, Chennai - 31.

..Respondents / Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the award and decree dated 21.02.2014 passed in MCOP.No.4552 of 2006 by the Motor Accidents Claims Tribunal / VI Small Causes Court, Chennai.

For Appellant : Mr.Amar D.Pandiya
For Mr.J.Ramkumar

For R1 : Mr.M.Devaraj

For R2 : Mr.K.Vinod
for Mr.Elveera Ravindran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed questioning the compensation granted by the learned Motor Accident Claims Tribunal, VI Small Causes Court, Chennai in MCOP.No.4552 of 2006 by judgment and decree dated 21.02.2014.

2. The appellant who was the petitioner before the Tribunal is deeply concerned and aggrieved by the quantum of compensation granted by the Tribunal.



3. The brief facts are that the petitioner, a mason has suffered injuries in both bones in the leg and thereby could not continue to work as mason and sought compensation of Rs.2,90,000/- for the injuries suffered. I am really concerned in this appeal only with the loss of income aspect. He claimed a sum of Rs.52,000/- as total loss of earning from 02.06.2006 to 31.12.2006 and another sum of Rs.25,000/- for partial loss of earning from 01.01.2007 to 31.07.2007. I am also concerned with the claim what has been granted by the learned Tribunal on the ground of transportation, extra nourishment and damages to clothing and articles for which a sum of Rs.10,000/- was granted. The learned Tribunal had determined the disability at the rate of 40% and had fixed at the rate of Rs.2,000/- per percentage and had granted a total amount of Rs.80,000/- under that head. With respect to loss of income, the learned Tribunal had determined the income per month which should have been suffered as loss by the appellant at Rs.4,500/- and calculating the same for six months had granted a sum of Rs.27,000/-. Regarding transportation and extra nourishment and damages to clothes a sum of Rs.10,000/- had been granted. The learned Tribunal had also taken into consideration, the medical expense at Rs.3,000/-, compensation for pain and suffering at Rs.25,000/- and loss of amenities at Rs.25,000/- and had determined the total compensation payable to the petitioner at Rs.1,70,000/-.

4. The scope of the appeal is quite narrow. The facts cannot be re-examined namely, the fact that the appellant herein had actually suffered injuries. The fact that he had suffered injuries in his leg and that he was a mason and that therefore, as a mason with such injuries, he could not perform normal work and naturally, there was a loss of income during the period he had suffered owing to the injuries. The disability at the rate of 40% cannot be disputed at this stage and the fixation of Rs.2,000/- per percentage was actually a reasonable amount, and as was what prevalent in the year 2006.

5. I should deeply appreciate the learned counsel for the 2nd respondent who had been quite fair in his submission and stated that determination of monthly income at Rs.4,500/- would seem to be little on the lower side. The learned counsel for the appellant insisted that it should be fixed at Rs.7,500/-. But I would rather to meet the ends of justice determine that Rs.6,000/- can be fixed as the monthly income that the appellant would suffer and if that is calculated for six months, the total loss under that head which comes to Rs.36,000/-. Naturally, there is interference with that particular portion of the order under appeal by determining the loss of income which was determined at



Rs.27,000/- now being increased to Rs.36,000/-. There are further heads namely, under expenses due to transportation, extra nourishment and damages of clothes. On these three separate heads, the learned Tribunal had fixed a total sum of Rs.10,000/- without granting break up for each head. However, ends of justice would require that the said compensation has to be revisited and an additional Rs.10,000/- is granted to the appellant herein. This would imply that the appellant would be entitled to an increase of Rs.19,000/- and therefore, now the total amount comes to Rs.1,89,000/-.

6. The Civil Miscellaneous Appeal is partly allowed to that extent enhancing the compensation which had been determined as Rs.1,70,000/- to Rs.1,89,000/-. The other aspects are in the order shall remain the same. The Insurance company shall deposit the difference in compensation amount with interest of 7.5% from the date of filing of the appeal till the date of deposit within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the same. No order as to costs.

7. The Registry while preparing the decree may also examine whether any court fee is payable by the petitioner and, if it is so may call upon the appellant to adjust the same.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

smv

To:-

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

Copy to: The Section Officer,
V.R.Section, High Court, Madras-104.

+1cc to M/s.Elveera Ravindran, Advocate SR.No.7961
+1cc to Mr.M.Devaraj, Advocate SR.No.8431

CMA.No.516 of 2017

SSV(CO)
CB(14/03/2022)