



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A(MD)No.422 of 2019

Chellapandi

... Appellant/Claimant

vs.

1.Sureshkumar

2.The Branch Manager,
National Insurance Company Ltd.,
Jeram Building 1st Floor,
Fort Station Road,
Trichy District.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30(1) of Workmen Compensation Act praying this Court to enhance the award passed in W.C.No.114 of 2015 on the file of the Workmen's Compensation Commissioner/Tribunal, Dindigul, dated 28.08.2017.

For Appellant : Mr.R.Mohana Sundaram
for Mr.C.K.M.Appaji

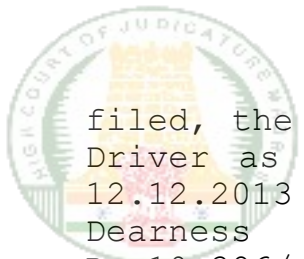
For R1 : No appearance

For R2 : Mr.R.Srinivasan

JUDGMENT

This Civil Miscellaneous Petition is filed by the injured claimant/appellant herein seeking enhancement of compensation.

2.The appellant /injured has filed a claim petition in W.C.No.114 of 2015 before the Workmen's Compensation Commissioner for the injuries sustained during the course of the employment. He has appeared before the Medical Board whereby the Medical Board has issued disability certificate at the rate of 80%. Based upon Schedule 1, Section (b), Serial No.20 of the Workmen Compensation Act, 1923, for below knee amputation, 50% earning capacity has been reduced and also taking note of the fact that the claim petitioner has taken treatment for left zygomaticomaxillary complex with facial soft tissue injury and left clavicle fracture, the Commissioner/Tribunal has fixed the loss of earning capacity at 65% and taking into consideration the age of the injured at 39 necessary ratio at 186.90 is arrived at. Since no document for salary is



filed, the commissioner has adopted the minimum wages payable to the Driver as per GO(2D) No.91 Labour and Employment Department dated 12.12.2013 and fixed the basic salary at Rs.4,584% along with Dearness Allowance of Rs.5,792 and totally a sum of Rs.10,386/-. However, in view of the slashing, a sum of Rs.8,000/- was taken. Accordingly, the loss of earning capacity has been arrived at $60/100 \times 8000 \times 186.90 \times 65/100 = \text{Rs.}5,83,128/-$.

3.The learned counsel for the claimant would contend that the functional disability of 65% to arrive at the loss of earning capacity, is too low. After perusing the disability certificate issued by the medical board consisting of the Joint Director/President in Special Medical Committee, Dindigul, dated 11.05.2017, wherein the disability is fixed at 80% and also considering the surgery undertaken by the claim petitioner which has fall under Serial No.20 in Section B, Schedule-I, the Tribunal has rightly arrived at the loss of earning capacity as 65% and adopted correct multiplier along with ratio and hence, I do not find any error in arriving at the said compensation. Besides, the medical bill to the tune of Rs.1,35, 433 was also allowed.

4.The learned counsel for the claimant would contend that the balance of Rs.64,400/- was deducted as a credit payment. Those head of account was deducted as a credit payment, since the labour was having no means to pay at time, he availed the credit facility and hence, a sum of Rs.65,400 is now allowed.

5.In the result, the Civil Miscellaneous Petition is allowed only to the extent of Rs.64,500/- partly. The quantum of compensation awarded by the Tribunal is enhanced from Rs.7,18,561/- to Rs.7,83,061/-. The appellant/claimant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee. The second respondent herein - National Insurance Company Limited is directed to deposit the entire compensation of Rs.7,83,061/- (if not already deposited) together with interest at the rate of 12% per annum from the date of claim petition till the date of deposit to the credit of W.C.No.114 of 2015 on the file of the Workmen's Compensation Commissioner Tribunal, Dindigul, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the appellant/claimant is permitted to withdraw the entire amount after following the due process of law. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1. The Workmen's Compensation Commissioner/Tribunal,
Dindigul.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.SRINIVASAN, Advocate (SR-10549[F] dated 08/03/2022)

C.M.A(MD) No.422 of 2019

07.03.2022

MGJ(08.04.2022) 3P 5C