



CMA(MD).No. 1043 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No. 1043 of 2017

1. S.Vijaya Baskar

....Appellant/Petitioner

Vs.

1. R.Ravi

2. M/s.ICICI Lombard General Insurance Company Ltd.,

Zenith House,

Keshavarao Khade Marg,

Mahalakshmi,

Mumbai – 400 034.

... Respondents/ Respondents

(1st respondent was set ex-parte before Tribunal
Hence notice to respondent be dispensed with)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 30.08.2013 in M.C.O.P.No.63 of 2010, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Pudukkottai.

For Appellant : Mr.PT.S.Narendravasan

For Respondents : Mr.V.Muthukamatchi – for R2
: R1- Ex-parte



WEB COPY



CMA(MD).No. 1043 of 2017

J U D G M E N T

The present appeal has been filed by the injured claimants seeking enhancement of compensation of the award passed by the Motor Accidents Claims Tribunal, Principal District Court, Pudukkottai in M.C.O.P.No.63 of 2010.

2. According to the injured claimant, he was a Sales man in a Tasmac Shop and he was aged about 33 years on the date of accident. As per Ex.P.32-Disability Certificate, which was issued by P.W.2, the disability sustained by the injured claimant is 30%. According to the appellant, the Tribunal has reduced the said disability to 25%, but has not awarded any amount towards loss of partial permanent disablement as per the disability certificate. The Tribunal has only awarded a sum of Rs.6,000/- (Rupees Six Thousand only) towards loss of income. Therefore, he prayed for enhancement of the compensation. He further contended that the Tribunal has not awarded any amount for loss of amenities arising out of his disability.



CMA(MD).No. 1043 of 2017

3. Per contra, the learned counsel appearing for the second respondent had contended that the disability certificate has been issued by P.W.2, who had not treated the injured claimant and therefore the said certificate could not be relied upon to arrive at the quantum of the disability suffered by the claimant. Therefore, the question of awarding any amount for loss of amenities arising out of the said disability would not arise.

4. I have carefully considered the submissions made by the learned counsel on either side.

5. The injured claimant had suffered a sustained fracture in the right hand and plates have been implanted. The claimant has also suffered a fracture in the hip bone and lumbar spine. Therefore, it is clear that the injured claimant has sustained grievous injuries. The Tribunal has not assigned any reason whatsoever for reducing the disability from 30% to 25%. The Tribunal has not awarded any amount towards partial permanent disablement arising out of the said accident.



CMA(MD).No. 1043 of 2017

6. This Court is of the view that towards partial permanent disablement a sum of Rs.3,000/- (Rupees Three Thousand only) per percentage would be awarded and therefore, a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) could be awarded under the head of partial permanent disability. Considering the nature of injuries sustained by the claimant in the hip region and in the lumbar spine, certainly a sum of Rs.10,000/- (Rupees Ten Thousand only) could be awarded towards loss of amenities.

7. In view of the above said facts, the total amount of Rs.84,550/- (Rupees Eighty Four thousand and Five Hundred and fifty Only) awarded by the Tribunal is modified as follows:

Towards partial permanent disability, a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) is awarded. For loss of income, Rs.6,000/- (Rupees Six Thousand only) is awarded, For transport to Hospital, a sum of Rs.10,000/- (Rupees Ten Thousand only) is awarded. For Extra Nourishment, a sum of Rs.10,000/- (Rupees Ten Thousand only) is awarded. For Medical Expenses, a sum of Rs.48,550/- (Rupees Forty Eight Thousand Five Hundred and Fifty only) is awarded. For pain



CMA(MD).No. 1043 of 2017

and sufferings, a sum of Rs.10,000/-(Rupees Ten Thousand only) is awarded. For Loss of Amenities, a sum of Rs.10,000/- (Rupees Ten Thousand only) is awarded. Totally a sum of Rs.1,69,550/- (Rupees One Lakh Sixty Nine Thousand Five Hundred and Fifty only) is awarded.

8. Therefore, the award amount is enhanced from Rs.84,550/- to Rs.1,69,550/- (Rupees One Lakh Sixty Nine Thousand Five Hundred and Fifty only) and the said amount will carry interest at the rate of 7.5% per annum from the date of the claim petition. The Insurance Company is directed to deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this order.

9. This Civil Miscellaneous Appeal is partly allowed to the extent as sated above. There shall be no order as to costs.

12.04.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
ebsi

2/2

5/7



CMA(MD).No. 1043 of 2017

WEB COPY

To

- 1.The Motor Accidents Claims Tribunal,
Principal District Court,
Pudukkottai.
2. M/s.ICICI Lombard General Insurance Company Ltd.,
Zenith House,
Keshavarao Khade Marg,
Mahalakshmi,
Mumbai – 400 034.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CMA(MD).No. 1043 of 2017

R.VIJAYAKUMAR,J.

ebsi

Judgement made in
C.M.A(MD)No.1043 of 2017

12.04.2023
(2/2)