



WEB COPY



C.M.A. No.4311 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.4311 of 2019

Karunanidhi

.... Appellant

vs.

1. Boopal
2. Settu
3. The Manager,
Sri Ram General Insurance Company,
Dharmapuri Town,
Dharmapuri T.K. & Dt.

.... Respondents

Prayer : Civil Miscellaneous Appeal filed under 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Dharmapuri, dated 17.06.2017 in M.C.O.P. No.133 of 2015.

For Appellant	:	Mr.S.P. Vishnu Prasath
For Respondents	:	Mr.S. Dhakshinamoorthy for R3 R1 & R2 – No appearance

JUDGMENT

This appeal has been filed by the claimant seeking enhancement of compensation.

2. Heard Mr.S.P. Vishnu Prasath, learned counsel for the appellant / claimant and Mr. S. Dhakshinamoorthy, learned counsel for the 3rd



C.M.A. No.4311 of 2019

respondent / Insurance Company. Despite service of notice on the respondents 1 and 2, there is no representation on their side.

3. The Tribunal under the impugned award has directed the 3rd respondent / Insurance Company to pay the appellant / claimant a compensation of Rs.20,000/- for the injuries sustained by the appellant / claimant as a result of an accident caused by the vehicle insured with the 3rd respondent / Insurance Company.

4. The appellant / claimant had sustained thigh injuries and has also sustained a fracture. It is an undisputed fact that the appellant / claimant, prior to the accident, had one of his legs amputated. Therefore, at the time of the accident, one of the legs of the appellant / claimant was already amputated. The Medical Board had assessed the disability of the appellant / claimant at 75%. Having sustained only one fracture and having sustained only thigh injuries, the assessment of the disability of the appellant / claimant by the Medical Board at 75% is too high.

5. The learned counsel for the 3rd respondent / Insurance Company would submit that the Medical Board has taken into consideration the amputation of one of the legs of the appellant / claimant for the purpose of assessing his disability and only under those circumstances, 75% disability has been assessed. This Court is in agreement with the



C.M.A. No.4311 of 2019

submission made by the learned counsel for the 3rd respondent / Insurance Company. However, the Tribunal ought to have awarded a higher compensation to the appellant / claimant considering the fact that he was hospitalised for a period of one month as seen from the discharge summary which was in fact produced by the 3rd respondent / Insurance Company before the Tribunal. The learned counsel for the 3rd respondent / Insurance Company has also not disputed the fact that the appellant / claimant was hospitalised for a period of one month.

6. Having sustained one fracture in the thigh and having sustained simple injuries all over the body, this Court will have to assess the disability of the appellant / claimant after giving due consideration to the certificate issued by the Medical Board, which was for the whole body, which includes the amputation of one of the legs of the appellant / claimant which had happened prior to the accident, for which the motor accident claim was instituted. After giving due consideration to the same, this Court assesses the disability of the appellant / claimant at 30% on partial permanent basis. The appellant / claimant had claimed before the Tribunal, a total compensation of Rs.5,00,000/- Considering the nature of injuries sustained by the appellant /claimant, the question of adoption of



multiplier method by this Court does not arise and the disability compensation will have to be assessed only on percentage method. The accident happened in the year 2013. For an accident of that year, it is settled practice to award disability compensation at Rs.4,000/- per percentage of disability. Since, this Court has assessed the disability of the appellant /claimant at 30%, the disability compensation payable to the appellant / claimant is assessed at Rs.1,20,000/-, calculated at Rs.4,000/- per percentage of disability, for the 30% disability suffered by the appellant / claimant.

7. However, the Tribunal ought to have awarded compensation towards extra nourishment, transportation, pain and suffering, attender charges and loss of amenities, after giving due consideration to the nature of the injuries. The appellant/claimant had sustained fracture in thigh and he was hospitalised for a period of one month. Since the nature of the injuries sustained by the appellant are indeed grievous in nature which would have affected his mobility for a long period of time, the Tribunal ought to have awarded compensation under the aforesaid heads. Accordingly, this Court awards a sum of Rs.5,000/- towards extra nourishment; Rs.5,000/- towards transportation; Rs.10,000/- towards pain and suffering, Rs.10,000/- towards attender charges and Rs.10,000/-



C.M.A. No.4311 of 2019

towards loss of amenities respectively.

WEB COPY

8. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.20,000/- to Rs.1,60,000/- as detailed hereunder:

<i>Heads</i>	<i>Amount Awarded by the Tribunal in Rs.</i>
Compensation for simple injuries sustained by the appellant / claimant	20,000
Total Compensation	20,000

<i>Heads</i>	<i>Amount Awarded by this Court in Rs.</i>
Disability * Rs.4000/- x 30%	1,20,000 *
Extra nourishment	5,000
Transportation	5,000
Pain and suffering	10,000
Attender charges	10,000
Loss of amenities	10,000
Total Compensation	1,60,000

9. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the compensation from Rs.20,000/- to Rs.1,60,000/-. No



C.M.A. No.4311 of 2019

Costs.

WEB COPY

10. The 3rd respondent / Insurance Company is directed to deposit the amount as determined by this Court, after deducting the amount already deposited if any, together with interest @ 7.5%p.a., from the date of claim till the date of deposit and cost, to the credit of M.C.O.P. No.133 of 2015 on the file of the Motor Accident Claims Tribunal, cum Chief Judicial Magistrate, Dharmapuri, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant /claimant through RTGS, within a period of two weeks thereafter. Necessary Court fee, if any has to be paid by the appellant / claimant before receiving the copy of this Judgment.

10.07.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

ABDUL QUDDHOSE, J.

vsi2



C.M.A. No.4311 of 2019

To

1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Dharmapuri.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

C.M.A. No.4311 of 2019

10.07.2024