
(2005) 01 MAD CK 0063

In the Madras High Court

Case No : Civil Miscellaneous Appeal No. 68 of 2005 and C.M.P. No. 349 of 2005

The Oriental Insurance Co. Ltd.

APPELLANT

Vs

V. Sathyanarayana Babu and Dr. L. Pari

RESPONDENT

Date of Decision : 17-01-2005

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2005) 01 MAD CK 0063

Hon'ble Judges : S. Sardar Zackria Hussain, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : J. Chandran, for the Appellant;

Final Decision : Dismissed

Judgement

S. Sardar Zackria Hussain, J.—The Insurance Company, aggrieved against the award passed by the Tribunal fixing the compensation at Rs.

2,60,550/-, has filed this appeal.

2. The claimant, V. Sathyanarayana Babu in respect of the injuries sustained in a road accident that took place on 11.6.1996, filed the petition

claiming compensation at Rs. 4,00,000/-. The Tribunal, after considering the evidence let in on the side of the claimant viz., P. Ws.1 to 3 and

Exs.P1 to P17, awarded compensation at Rs. 2,60,550/-, which is under challenge in this appeal. No evidence was let in on the side of the

appellant Insurance Company.

3. In this appeal, only the quantum is disputed by the appellant Insurance Company. In respect of the injuries sustained in the accident, it is seen

that the claimant was admitted in the Government General Hospital, Chennai and took treatment as in-patient for three days, as per the discharge

certificate Ex.P1. Thereafter, the claimant was taking treatment as in-patient in Sri Ramachandra Medical College Hospital from 14.6.1996 to

6.7.1996 as per Ex.P2. There, two operations were performed and a plate was fixed in the left thigh of the claimant due to fracture in the left thigh.

The claimant has marked Ex.P4 certificate to show that he was admitted as in-patient in the Sri Ramachandra Medical College Hospital. Ex.P5 is

an O.P. Chit showing that the claimant was taking treatment in Sri Ramachandra Medical College Hospital. Ex.P7 is a disability certificate issued

by Sri Ramachandra Medical College Hospital to the effect that the left leg of the claimant was shortened due to the fracture in his left thigh. The

claimant has also deposed that due to the accident, there were fractures on the right hand finger, left thigh bone and hip. P.W.3 Doctor also

adduced evidence to the effect that in the accident, the claimant has sustained fracture on the left bone of the hip and due to the said fracture, he

underwent operation and a plate was fixed in his left thigh. The Doctor has further adduced that due to the fracture in the right hand and the hip,

though treatment was given there was mal-union and there was shortening of left leg by about 1.5"" and it would be difficult for the claimant to sit on

the floor conveniently and climb the steps and it would not be possible for him to walk for long and it would also be difficult for the claimant to lift

the heavy articles and do day-to-day work and as such, the Doctor assessed the disability at 70% and issued Ex.P16 disability certificate. Ex.P17

is X-ray.

4. The claimant has stated in the claim petition that he was doing jewellery business and he was earning a sum of Rs. 6,000/- per month by making

gold jewels. He has stated in his evidence that he was earning Rs. 7,000/- per month by making silver articles. The claimant has further claimed

that he was unable to do his business for a period of nine months on account of the injuries sustained by him in the accident.

5. The Tribunal, taking note of the fact that no document has been produced by the claimant in support of his income, has come to the conclusion

that the claimant would have earned Rs. 5,000/- per month and he could not have attended to his jewellery work for a period of six months. On

that basis, the Tribunal has arrived at a sum of Rs. 30,000/- towards loss of earning for a period of six months. The Tribunal has also awarded a

sum of Rs. 10,000/- towards transport expenses for the period for which he was taking treatment as inpatient and outpatient in the hospital. The Tribunal has further awarded a sum of Rs. 10,000/- towards nutritious food and Rs. 40,550/- for medical expenses and on the basis of the evidence of the claimant and P.W.3 Doctor and also Ex.P3 O.P. Chit, the Tribunal has awarded a sum of Rs. 50,000/- for removal of the plate and screw fixed in the left thigh of the claimant and for future medical expenses. For pain and suffering, considering the nature of injuries sustained by the claimant, the Tribunal has awarded a sum of Rs. 25,000/-. Because of his partial disability, i.e., shortening of left leg by 1.5"" the claimant has to walk only by using a crutch for his support and on account of his disability, he could not attend to his day-to-day work and it would be difficult for him to sit and do his jewellery work. Hence, the Tribunal has awarded a sum of Rs. 70,000/- towards partial disability. The Tribunal has further awarded a sum of Rs. 25,000/- for loss of earning power. Thus, the Tribunal has totally awarded a sum of Rs. 2,60,550/- to the claimant as against the claim of Rs. 4,00,000/-.

6. We perused the materials on record. Though the learned counsel for the appellant submitted that the award amount is on the higher side, we are satisfied that the Tribunal only considering the entire evidence has rightly awarded the said amount of Rs. 2,60,550/- towards compensation for the injuries sustained and disability caused to the claimant and therefore, we are not inclined to interfere with such award.

7. In the result, the appeal is dismissed at the admission stage itself, confirming the award dated 30.4.2004 passed in M.C.O.P. No. 3611 of 1997 on the file of the Motor Accidents Claims Tribunal(V Judge, Small Causes Court), Chennai. Consequently, C.M.P. No. 349 of 2005 is also dismissed.