

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2015

C O R A M

THE HONOURABLE Mr.JUSTICE B.RAJENDRAN

C.M.A. No. 3221 of 2010

A.Kannan

... Appellant/Claimant

Vs

1. Pioneer Road Lines

Office at 4/5 Kusumchand Park

O.N.G.C.Char Rastra Iccha

Hazjira Road, Surat District

Gujarat State - 395 001

(1st Respondent remained exparte before the tribunal hence notice to the 1st Respondent may be dispense with)

2. National Insurance Company Limited

Office at : Godavari Bhavan

Chowki Sheri, Gujarat

Branch Office at National Insurance

Company Limited, Saradha Colelge

Main Raod, Salem - 636 007

... Respondents/ Respondents

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act 1988 against the award and decree dated 30.10.2009 and made in MCOP.No.429 of 2005 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, FTC, Court No.1, Salem praying to set aside the same.

For Appellant : Mr. P.Jagadeesan

For R1 : ex parte

For R2 : Mr. K.Padmanabhan

J U D G M E N T

The claimant is the appellant. He moved the Motor Accident Claims Tribunal, Salem in M.C.O.P.No.429 of 2005 claiming a compensation in a sum of Rs.15,00,000/- for the grievous injury sustained by him in the accident that took place on 01.6.2003. The Tribunal awarded a sum of Rs.2,18,923/-, which is under challenge in this appeal seeking enhancement of the compensation.

2. Both sides did not dispute the liability and they restricted their arguments only with regard to the quantum awarded.

3. Learned counsel appearing for the appellant would submit that even though the claimant has suffered grievous injuries and the Doctor PW5 has given the medical certificate assessing the permanent disability at 65%, the Court below has not awarded any amount towards pain and suffering and extra nourishment. The learned counsel for the appellant would also submit that the appellant has taken treatment even after being discharged from the hospital for several days but the court below has not awarded any amount towards transportation and attendant charges. The learned counsel would also submit that the appellant due to the serious injuries sustained in the accident, he could not pursue his normal activities and cannot do any work for his livelihood. Though the claimant had claimed a sum of Rs.15,00,000/- as compensation, the Tribunal has awarded only a sum of Rs.2,18,923/-. Accordingly, he would pray for enhancement of the same.

4. Learned Counsel appearing for the respondent/ Insurance company would submit that the Court below, after taking into consideration the entire medical records and also the documents produced on the side of the claimant, has rightly awarded a sum of Rs.2,18,923/- and hence, no interference is warranted in this appeal.

5. Heard both sides and perused the records.

6. On a careful perusal of the judgment passed by the Court below, it is seen that the court below had awarded a total compensation of Rs.2,18,923/- under the following heads:

- | | |
|---------------------------|-----------------|
| 1. Wound certificate | - Rs. 9,000/- |
| 2. Hospital Bills (A3) | - Rs. 15,270/- |
| 3. Hospital Bills (A4) | - Rs. 38,166/- |
| 4. Hospital Bills (A7) | - Rs. 11,000/- |
| 5. Medical Bills (A8) | - Rs. 15,487/- |
| 6. Disability Certificate | - Rs.1,30,000/- |

Total Rs.2,18,923/-

Though the Court below has held that the claimant/appellant has sustained two grievous injuries and the same has been established by producing Ex.A2 would certificate, the Court below has not awarded any amount towards pain and suffering and Extra nourishment. Therefore, considering the pain undergone by the appellant/ claimant, a sum of Rs.25,000/- is awarded under the head pain and suffering and a sum of Rs.10,000/- is

awarded towards extra nourishment. It is seen that the appellant / claimant was unable to work for several months in view of the injuries sustained by him. Therefore, the Court below ought to have awarded some amount towards loss of past income. Therefore, a sum of Rs. 25,000/- is awarded under the head loss of past income. Further, the appellant/claimant has taken treatment even after being discharged from the hospital for several days but the court below has not awarded any amount towards transportation and attendant charges. Considering the treatment undergone by the petitioner, a sum of Rs.5,000/- is awarded under the head transportation and a sum of Rs.20,000/- is awarded under the head attendant charges.

7. The Court below had awarded a sum of Rs.15,270/-, Rs.38166/-, Rs.11,000/- towards hospital bills; Rs.15,487/- towards medical bills and Rs.1,30,000/- towards disability certificate, which are very reasonable considering the nature of the injuries sustained by the claimant/appellant and hence, the amount awarded under these heads are confirmed. Further, the Court below has awarded a sum of Rs.9,000/- under the head wound certificate which is not fair as already Rs.1,30,000/- has been awarded under the head disability.

8. In the result, the judgment passed by the Court below is modified and the compensation of Rs.2,95,000/- is awarded as follows:-

1. Hospital Bills (A3) - Rs. 15,270/-
2. Hospital Bills (A4) - Rs. 38,166/-
3. Hospital Bills (A7) - Rs. 11,000/-
4. Medical Bills (A8) - Rs. 15,487/-
5. Disability - Rs.1,30,000/-
6. Pain and suffering - Rs. 25,000/-
7. Extra Nourishment - Rs. 10,000/-
8. Attendant Charges - Rs. 20,000/-
9. Transport charges - Rs. 5,000/-
10. Loss of past income - Rs. 25,000/-

Total - Rs.2,94,923/-Rounded off
Rs.2,95,000/-

9. Accordingly, the second respondent/Insurance Company is directed to deposit the entire compensation amount of Rs.2,95,000/-[Rupees Two Lakhs Ninety Five thousand only], less the amount already deposited, if any, to the credit of MCOP 429 of 2005 on the file of the Motor Accident Claims Tribunal, Additional District Judge, FTC Court No.1, Salem, within a period of six weeks from the date of receipt of a copy of this

order along with an interest at the rate of 7.5% from the date of petition. It is needless to state that on such deposit being made, the appellant/claimant is entitled to withdraw the entire compensation amount along with interest, less the amount already withdrawn, if any, on making out a proper application before the court below.

10. With the above modification, this Civil Miscellaneous Appeal is allowed. No costs.

sd/-
Assistant Registrar (Cs-VII)

/TRUE COPY/

Sub-Assistant Registrar

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To

1. The Additional District Judge, FTC-I
(Motor Accidents Claims Tribunal),
Fast Track Court No.1,
Salem.

2. The Section Officer,
VR Section, High Court,
Madras

C.M.A. NO.3221 of 2010

CO-RSI
JD 12/02/2016

सत्यमेव जयते

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