

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.549 of 2011

M.Murugan

..Appellant/petitioner

..VS..

1. G.Durairaj

2.The Oriental Insurance Co. Ltd.,
Motor third party Claim Cell,
No.8, Esplanade Road, Broadway,
Chennai 600 010.

.Respondents/respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 15.04.2010 passed in M.C.O.P.No.5518 of 2005 on the file of the Motor Accidents Claims Tribunal, (Court of V Small Causes), Chennai.

For Appellant : Mr.K.V.Muthuvisakan

For Respondent-2 : Mr.J.Chandran

JUDGMENT

Aggrieved by the award of the Motor Accidents Claims Tribunal, Court of V Small Causes, Chennai, in M.C.O.P.No.5518 of 2005 dated 15.04.2010 in

granting only compensation to the tune of Rs.1,57,800/-, as against the claim of Rs.5 lakhs, the appellant/claimant has come forward with the present Civil Miscellaneous Appeal for enhancement.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. On 16.10.2005 at about 10.00hrs., when the appellant/claimant was riding at Anna Nagar IInd Avenue in his motorcycle bearing registration No. 20-M-4017, an auto bearing registration No.TN 07 X 3192 came in a rash and negligent manner and hit against him, in which the claimant sustained multiple injuries all over the body. Claiming compensation to the tune of Rs.5,00,000/-, the appellant/claimant approached the Tribunal and the Tribunal has granted a sum of Rs.1,57,800/- as compensation. Aggrieved over the same, the present appeal is filed.

4. The contention of the appellant/claimant is that though the income pleaded was a sum of Rs.11,000/- per month, the Tribunal has taken only a sum of Rs.4,500/- per month. Further, the Tribunal has awarded Rs.1,500/- per percentage of disability which is very meager and it should have been Rs.3,000/- per percentage. However, though the doctor has assessed the disability at 40%, the Tribunal has fixed disability only at 35%, even though the appellant has

sustained permanent disability. That apart, only a scanty amount was awarded under other heads particularly for loss of income.

5. Learned counsel appearing for the second respondent insurance company contended that the award of the tribunal is just and reasonable and hence, seeks dismissal of the appeal.

6. The Honourable Apex Court, in the judgment rendered in **Syed Sadiq V. Divisional Manager, United India Insurance Co. Ltd** reported in **2014 (1) TN MAC 459 (SC)**, in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, determined Rs.6500/- as the monthly income. Taking note of the **Syed's** case referred to above, the monthly income of the deceased is fixed at Rs.4,500/-, and I am inclined to modify the award granted by the Tribunal.

7. That apart, from the perusal of the records, it is seen that no amount had been granted for loss of amenities and the amount granted other conventional heads are also very meager. Hence, the award passed by the Tribunal is modified as detailed below:

Sl.No.	Head	Amount granted by the Tribunal
1	Loss of Earning	Rs. 45,000/-
2	Loss of amenities	Rs. 20,000/-
3	Disability 35% (Rs.3,000/- per percentage)	Rs.1,05,000/-

Sl.No.	Head	Amount granted by the Tribunal
4	Transportation expenses	Rs. 10,000/-
5	Extra Nourishment	Rs. 10,000/-
6	Damage to cloths and articles	Rs. 1,000/-
7	Medical Bills	Rs. 14,300/-
8	Attender charges	Rs. 10,000/-
9	Pain and Sufferings	Rs. 40,000/-
	Total	Rs.2,55,300/-

8. The Insurance Company/second respondent is directed to deposit the entire amount awarded by this Court together with proportionate costs and interest @ 7.5% per annum from the date of claim petition, if not already deposited, before the Tribunal, to the credit of M.C.O.P.No.5518 of 2005 on the file of the Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai, within a period of four weeks, from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

28.04.2016

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To

1. The Motor Accidents Claims Tribunal
Court of V Small Causes, Chennai

S.VAIDYANATHAN, J.

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Judgment in
C.M.A.No.549 of 2011

28.04.2016