

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A. NO.1946 OF 2014
M.P. NO.1 of 2015

S.Shankar ... Appellant/Petitioner

- Vs -

1. T.Kanagaraj
2. National Insurance Company Limited,
Maruti Business Hub,
169, Anna Salai, 2nd Floor,
Chennai - 600 002.

..... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Award and decree dated 29.01.2014 passed by the Motor Accident Claims Tribunal (III Small Causes Court), Chennai, made in M.C.O.P.No.1269 of 2012.

For Appellant : Mr.K.Kumar
For Respondents : Mr.J.Chandran - R2

J U D G M E N T
(DELIVERED BY R.SUDHAKAR, J.)

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the second respondent.

2. The appellant/claimant has filed the appeal challenging the Award dated 29.01.2014 passed by the Motor Accident Claims Tribunal (III Small Causes Court), Chennai, made in M.C.O.P.No.1269 of 2012.

3. It is a case of injury. On 15.7.2011 at about 9.00 a.m. while the injured claimant S.Shankar was proceeding in a two wheeler bearing Registration No.PY-01-Z-6541 along with his friend Mr.Jayachandran on the pillion, at Maduravoyal Service Road, near MGR College, a car bearing Registration No.TN-22-BQ-9192 came in a rash and negligent manner and dashed against the

vehicle of the injured, as a result, the injured and his friend sustained severe injuries. Hence, the claimant/appellant has filed claim petition claiming a sum of Rs.30,40,000/- as compensation. According to the claimant, he was doing business in Law Books selling and publishing and was earning a sum of Rs.30,000/- per month.

4. In support of the claim petition, the claimant was examined as P.W.1 and Dr.Mathiazhagan was examined as P.W.2 and Exs.P-1 to P-16 were marked, the details of which are as follows:-

Ex.P-1	Discharge Summary issued by New Hope Hospital
Ex.P-2	Attested copy of FIR in Cr.No.1328/2011 registered at Poonamalee Traffic Investigation
Ex.P-3	Copy of Charge sheet
Ex.P-4	Copy of Rough Sketch
Ex.P-5	Copy of Motor Vehicle Inspector's Report
Ex.P-6	Copy of Driving Licence of the first respondent
Ex.P-7	Copy of Registration Certificate of Car
Ex.P-8	Copy of driving licence of the petitioner
Ex.P-9	Copy of insurance policy
Ex.P-10	Hospital bill
Ex.P-11	Medical Bills
Ex.P-12	Transport Bills
Ex.P-13	Copy of identity card of the petitioner
Ex.P-14	Copy of income tax returns
Ex.P15	Disability Certificate
Ex.P16	X-ray

5. On the side of the respondents, no witnesses were examined and no documents were marked.

6. The Tribunal based on the oral evidence of witnesses, the F.I.R. and also taking into account the documentary evidence and further there being no satisfactory evidence adduced on behalf of the second respondent/Insurance Company to refute the evidence as to the rash and negligent driving of the Car, came to the conclusion that the accident was caused due to the rash and negligent driving by the driver of the Car, and therefore, the liability was fixed on the second respondent herein and

consequently the second respondent was directed to compensate the claimant. Accordingly, the Tribunal awarded compensation under the following heads :-

Loss of income	-	Rs.1,35,000
Transport to Hospital	-	Rs. 15,000/-
Extra nourishment	-	Rs. 15,000/-
Damage to Clothing	-	Rs. 1,000/-
Medical Expenses	-	Rs.2,00,000/-
Attender Charges	-	Rs. 25,000/-
Loss of amenities of life	-	Rs. 25,000/-
Pain and suffering	-	Rs. 50,000/-
Permanent disability	-	Rs.6,30,000/-
Total Compensation	-	Rs.10,96,000/-

7. In all, the Tribunal awarded a compensation of Rs.10,96,000/= with interest at the rate of 7.5% from the date of numbering of the petition, i.e., 15.3.2012 till the date of deposit. Aggrieved by the said award, the appellant - claimant is before this Court by filing this appeal seeking enhancement of the award.

8. Insofar as the quantum of compensation is concerned, learned counsel appearing for the appellant-Claimant submitted that the claimant had suffered fracture shaft of femur and fracture of both bones at right leg. He further submitted that even though the income tax returns of the claimant has been marked as Ex.P.14, the Tribunal has fixed the monthly income on the lower side. Per contra, it is submitted by the learned counsel for the second respondent/Insurance Company that taking note of the injury sustained by the claimant, the Tribunal had correctly awarded compensation and therefore, no interference is called for with the well considered finding of the Tribunal.

9. This Court has given its careful consideration to the above contentions advanced by either parties and also perused the materials available on record.

10. With regard to the contention of the learned counsel appearing for the appellant that the monthly income fixed by the Tribunal is on the lower side, we find that the claimant has not established with any material as to the monthly income earned by the claimant. Even in the grounds of appeal, it is not mentioned as to what was the annual income earned by the claimant in terms of Ex.P.14. Even now, the learned counsel

appearing for the appellant is unable to state what was the monthly income of the injured claimant as per Ex.P.14. Hence, the Tribunal considering the age and nature of business of the claimant has rightly fixed the monthly income at Rs.15,000/-. Further, the Tribunal on an overall consideration of the nature of injury and the disability, has rightly granted the compensation on all relevant heads. The interest awarded by the Tribunal at 7.5% per annum is not in dispute and the same is confirmed.

11. Accordingly, finding no merit, this Civil Miscellaneous Appeal stands dismissed. The second respondent - Insurance Company is granted eight weeks time to deposit the award amount along with interest and costs, if not already deposited. On such deposit being made, the appellant/claimant is permitted to withdraw the amount along with interest and costs. Consequently, connected miscellaneous petition is closed. However, in the circumstances of the case, there shall be no order as to costs.
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s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To

The Registrar,
III Small Causes Court
Motor Accidents Claims Tribunal
Chennai.

+ 1 cc to Mr.J.Chandran, Advocate SR 17517

+ 1 cc to Mr.K.Kumar, Advocate SR 17341

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