

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2016

(Judgment Reserved on 07.11.2016)

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.No.2355 of 2002

and

M.P.No.2 of 2006

P.K.Gangatharan Appellant/Claimant

... Vs ...

1.A.Ganesan

2.The Oriental Insurance Co. Ltd.,
Near Dharmapuri Bus Stand.

3.N.Ravi

4.M.Chitra

5.National Insurance Company Ltd.,
33, Prominat Road, Condonment,
Trichy - 620 001. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 26.11.2001 made in M.C.O.P.No.976 of 1992 on the file of the Motor Accidents Claims Tribunal, (Sub-Court), Dharmapuri.

For Appellant : Mr.K.Selvaraj

For R-1 : Given up

For RR-2 to 5 : Served.
No Appearance

JUDGMENT

This civil miscellaneous appeal is directed against the judgment and decree dated 26.11.2001 made in M.C.O.P.No.976 of 1992, on the file of the Motor Accidents Claims Tribunal, Sub Court, Dharmapuri.

2. On the application filed by the claimant for the injuries sustained by him in an accident which occurred on

12.06.1991, the Tribunal, after perusing the oral and documentary evidence adduced on the side of the claimant, awarded a sum of Rs.62,500/- towards compensation to the claimant. Being not satisfied with the said award passed by the Tribunal, the claimant had preferred this appeal before this Court seeking enhancement of compensation from Rs.62,500/- to Rs.1,50,000/-.

3. The learned counsel for the appellant/claimant would mainly contend that the Tribunal has failed to award compensation for the hospital charges and other expenses, even though the appellant was an inpatient for several days and he has also produced medical bills for the actual expenses. The learned counsel for the appellant further contended that the Tribunal has failed to give compensation under the heads of pain and sufferings, continuing permanent disability, extra nourishment, clothing, transportation and loss of earnings and hence, the learned counsel prayed that the compensation awarded by the Tribunal has to be enhanced as prayed for by the claimant.

4. The learned counsel for the appellant/claimant has made an endorsement in the appeal stating that since no liability was fixed on the first respondent, the appellant has given up the first respondent with the above CMA. The said endorsement is recorded. Hence, the appeal against the first respondent is dismissed.

5. Even though notice was served on the respondents 2 to 5 and their names are also printed in the cause list, they have not chosen to appear either in person or through counsel.

6. This Court has considered the submissions made by the learned counsel appearing for the appellant and perused the entire records.

7. In this case, on the application filed by the appellant/claimant claiming compensation under the following heads as stated in column 21(A)(1), the Tribunal, after considering the entire evidence and documents, awarded compensation as per column 21(A)(2) which reads as follows:-

21. (A) Particulars of loss and expenses

PART I	Heads	(1) Amount claimed in the claim petition	(2) Amount awarded by the Tribunal
(a)	Loss of earnings from job	Rs. 9,600/-	-
(b)	Partial loss of earnings	-	-
(c)	Transport to hospital	Rs. 1,200/-	-
(d)	Extra nourishment	Rs. 2,200/-	-

PART I	Heads	(1) Amount claimed in the claim petition	(2) Amount awarded by the Tribunal
(e)	Damage to clothing and articles	Rs. 2,000/-	-
(f)	Others expenses i.e., Hospital Charges, Medical Bills etc.,	Rs. 10,000/-	-
PART II			
(g)	Compensation for pain and sufferings	Rs. 75,000/-	-
(h)	Compensation for continuing or permanent disability (loss of vision in one eye)	Rs.1,00,000/-	Rs.40,000/-
(i)	Compensation for loss of earning power (Death)	-	-
(j)	Compensation for second grievous injuries as per Ex.P.6-Accident Register	-	Rs.10,000/-
(k)	Compensation for first and 3 to 6 simple injuries as per Ex.P.6-Accident Register	-	Rs.12,500/-
	Total	Rs.2,00,000/-	Rs.62,500/-

Though the claimant estimated his claim at Rs.2,00,000/-, he has restricted his claim to Rs.1,50,000/-.

8. Considering the nature of injuries sustained by the claimant and also the period of treatment taken by him, appropriate amount has to be awarded to the claimant. Hence, this Court is of the considered view that the compensation awarded by the Tribunal is enhanced as follows:-

Sl. Nos.	Heads	Amount awarded by the Tribunal	Amount granted by this Court
1.	Compensation for second grievous injuries as per Ex.P.6-Accident Register	Rs. 10,000/-	Rs. 20,000/-
2.	Compensation for first and 3 to 6 simple injuries as per Ex.P.6-Accident Register	Rs. 12,500/-	Rs. 20,000/-

Sl. Nos.	Heads	Amount awarded by the Tribunal	Amount granted by this Court
3.	Compensation for loss of right eye	Rs. 40,000/-	Rs. 60,000/-
	Total	Rs. 62,500/-	Rs.1,00,000/-

9. Considering the above, this Court is of the considered view that the compensation awarded by the Tribunal is enhanced to Rs.1,00,000/- from Rs.62,500/-.

10. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is enhanced to Rs.1,00,000/- from Rs.62,500/-. The interest awarded by the Tribunal at 9% per annum stands confirmed. In other respects, the judgment and decree of the trial Court is confirmed. The connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Jrl

To

The SubOrdinate Judge,
Motor Accidents Claims Tribunal,
Dharmapuri.

+1cc to Mr.K.Selvaraj, Advocate, S.R.No.75990

C.M.A.No.2355 of 2002

EV(CO)
CA(28/02/2017)