

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2016

CORAM

THE HON'BLE MR.JUSTICE N. SESHASAYEE

C.M.A.No.3525 of 2004

K.Sambandam

... Appellant/Petitioner

Vs

1.Renugadevi

2.The New India Assurance Co. Ltd.,
No.46, Moore Street,
Chennai - 600 001.

... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in O.P.No.4113 of 1997 dated 30.08.2001 on the file of the VI Judge, Small Causes Court (Motor Accident Claims Tribunal), Chennai, and praying to set aside the same.

For Appellant : Mr.A.Shanmugaraj

For Respondents: No Appearance

JUDGMENT

The appellant who was 62 years at the time of accident and having suffered injuries when the motor cycle in which he was travelling was hit by a car from behind has filed a claim petition in MCOP.No.4113 of 1997 on the file of the VI Judge, Small Causes Court (Motor Accident Claims Tribunal), Chennai.

2. Admittedly, the appellant sustained simple injuries and was an in-patient for a day in a private hospital. In all, the appellant made a total claim of Rs.1,00,000/- before the Tribunal, against which, the Tribunal has passed an award of Rs.31,000/-, challenging which, the appellant has preferred this Civil Miscellaneous Appeal seeking enhancement of compensation. The details of the amount claimed by the appellant and the amount awarded by the Tribunal is tabulated below :

Heads	Amount Claimed (Rs.)	Amount Awarded (Rs.)
Transportation	1,000	Nil
Extra nourishment	1,000	1,000
Medical Expenses	5,000	
Pain and suffering	9,000	30,000
Permanent disability	44,000	
Loss of earning power	40,000	
Total	1,00,000	31,000

3. The learned counsel for the appellant/claimant submitted that the appellant was 62 years old and for the pain and suffering that he had suffered due to the accident, he was not awarded anything. He also added that for a senior citizen, recovery is a slow process and there can be more side effects than that what is predictable and under such circumstances, he can be provided more for extra nourishment.

4. When the matter came up for hearing on 07.12.2016, there was no representation for the respondents. Even today, there was no representation. On going through the records, I find that no separate amount was awarded for pain and suffering. There is also some merit in the submission of the learned counsel for the appellant that the claimant shall be provided for additional nourishment. For pain and suffering, he shall be given additional amount of Rs.10,000/- and for extra nourishment, an additional amount of Rs.4,000/- shall be granted. Accordingly, this Civil Miscellaneous Appeal is allowed. No costs.

5. The respondents are directed to deposit a sum of Rs.45,000/- with interest @ 9%, less any amount already deposited within six weeks from the date of receipt of a copy of this order and on such deposit, the appellant is permitted to withdraw the same forthwith.

6. On going through the papers, it is seen that there was a representation delay of 320 days. The appellant is not entitled to any interest for the said period.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To:

The VI Judge, Court of Small Causes,
Motor Accident Claims tribunal,
Chennai.

+1 cc Mr. A.Shanmugaraj, Advocate Sr.71948

C.M.A.No.3525 of 2004

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