

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1255 of 2017

S. Prem Nivas

..Appellant/Claimant

Vs.

1. Kalpatharu Hauliers,
No.63/33, Katchalleswarar
Agraharam Street,
George Town, Chennai - 600 001.

2. M/s. Road World Logistics Pvt. Ltd.,
C-54, CMDA Truck Terminal Complex,
GNT Road, Madavaram,
Chennai - 600 110.

3. Royal Sundram Alliance Insurance Ltd.,
Legal Department, Subramanian Building,
III Floor, NO.1, Club House Road,
Anna Salai, Chennai - 600 002.

(Since 1st and 2nd respondents were set ex parte
in the Lower Court, notice to 1st and 2nd respondents
may be dispensed with) ...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act 1988as against the judgment and decree dated
21.06.2016 passed in M.C.O.P. No. 2878 of 2012 on the file of
the Motor Accidents Claims Tribunal - V Judge, Court of Small
Causes, Chennai.

For Appellant :: Mr.P. Natarajan

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by
the claimant as against the award of Rs.2,27,500/- as
compensation for the injuries sustained by him in the accident,
which occurred on 26.04.2012, when he was on duty regulating the
container lorry traffic in the Manali Express Main Road,
opposite to Bharath Petrol Bunk, MFL Junction, along with other
Police officials a lorry bearing Registration No. TN-05-Y-2971
insured with the 3rd respondent, driven rashly and negligently,
hit him.

2. The claimant is before this Court aggrieved over the quantum of compensation. Therefore, the only question to be decided is with regard to the quantum of compensation.

3. Learned counsel for the appellant would submit that eventhough P.W.4 Doctor determined the disability at 45%, the Tribunal, on its own, reduced the disability to 30% and awarded a sum of Rs.90,000/-. Therefore, he seeks to re-fix the percentage of disability and consequently, to enhance the compensation. Further, according to the learned counsel, the medical bills to the tune of Rs.3,18,021/- was not given and only a sum of Rs.9036.75/- was awarded. Hence, he seeks to claim the entire bill amount.

4. A perusal of the award would show that the Tribunal determined the disability at 30% eventhough the Doctor, P.W.4 deposed that the claimant sustained 45% disability. Taking note of the fact that P.W.4 Doctor was not the Doctor, who treated the claimant and that there was no formula or guideline adopted by the Doctor to arrive at the percentage of disability of 45%, the percentage of disability was fixed at 30% instead of 45% by the Tribunal and the same is based on reasons and cannot be interfered with. Similarly, Rs.3000/- was awarded per percentage of disability and totally, a sum of Rs.90,000/- was awarded towards "Disability", and the said amount is reasonable.

5. As far as Medical Bills are concerned, a sum of Rs. 3,18,021/- was sought. However, the Tribunal, analysing the evidence of the appellant as P.W.2 and evidence of P.W.3 found that out of Rs.3,18,021/- the appellant had got reimbursement for a sum of Rs.2,82,000/- and in respect of the balance amount of Rs. 36,021/-, the appellant had produced medical bills under Ex-P24 only to the tune of Rs.9,036.75 and therefore, the Tribunal rightly reimbursed the same. The appellant tried to play fraud on the Court by producing the entire bill to the tune of Rs.3,18,021/-, especially, when he was already reimbursed to the tune of Rs.2,82,000/-. However, the Tribunal, on careful analysis of the evidence, rightly deducted the amount which was already reimbursed.

6. Though the learned counsel relied upon the judgment of a Division Bench of this Court rendered in B. Anandhi V. R. Latha and another reported in 2002 ACJ 233 to drive home the point that the appellant is entitled to leave salary for 2 months, but the appellant has not lost his job and he was drawing salary during the leave period also and therefore, the appellant/claimant was rightly denied any amount towards "Loss of income during leave period". In the judgment relied upon by the learned counsel for the appellant, the leave period was a prolonged one and therefore, leave salary was

awarded and the said judgment would not be applicable to the facts of this case.

7. In the considered opinion of this Court, the award of the Tribunal to the tune of Rs. 2,27,500/- which includes amounts under other heads, is very reasonable and warrants no interference.

8. The 3rd respondent Insurance Company is directed to deposit the entire award amount, with interest and costs, if not already deposited, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the Tribunal is directed to transfer the amount directly to the appellant/claimant, after getting his bank account details, through RTGS, within a period of two weeks thereafter.

9. In the result, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

nv

To

The Motor Accident Claims Tribunal,
(V Court of Small Causes),
Chennai.

Copy to:-

The Section Officer,
V.R.Section, High Court,
Madras.

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C.M.A. No. 1255 of 2017

SSI (CO)
VR(16/5/2017)