

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1152 of 2008

K.Raju

...Appellant/Claimant

Vs

1.Tamilnadu State Transport
Corporation (Kovai region 2) Limited,
Erode, Rep by Managing Director,
Chennimalai Road,
Erode.

2.R.Thilakavathi

3.The National Insurance Company Ltd
Salem-Bhavani Road,
Opposite Bus Stand
Sankakiri-1

4.C.H.Pullarao

5.The United India Insurance Company Ltd
147 Bradipet,
Door No.537-
Guntur, Andra Pradesh.

...Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.110 of 2005 dated 22.09.2005 on the file of Additional District Judge cum Fast Track Judge-I Erode.

For Appellant
For Respondents

: Mr.K.S.Jeyaganeshan
: Mr.K.J.Sivakumar for R1
Not ready in notice for R2
No appearance for R3 & R4
Mr.T.Ravichandran for R5

JUDGMENT

The instant appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 22.09.2005 passed by the Motor Accident Claims Tribunal (Additional District Judge cum Fast Track Judge-I, Erode) in M.C.O.P.No.110 of 2005.

2. The brief facts leading to the filing of the instant appeal are as follows:

(i) The appellant sustained injury as a result of an accident due to the collusion between three vehicles viz., a Bus bearing registration No.TN-33-N-1286, a Lorry bearing registration No.KA-02-D-3999 and another lorry bearing registration No.AP-37-T-4369. The appellant claims to be a Police Constable and he was travelling in the Bus. The appellant preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.110 of 2005, seeking compensation of Rs.5,00,000/-.

(ii) The Motor Accident Claims Tribunal by its Award dated 22.09.2005 in M.C.O.P.No.110 of 2005, directed the respondent Nos.1, 3 and 5 to pay the total compensation of Rs.1,89,050/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation and each of the respondents mentioned above were directed to pay 1/3rd of the total compensation amount.

(iii) Aggrieved by the quantum of compensation awarded by the Tribunal under the impugned Award, the instant appeal has been filed by the claimant seeking enhancement of compensation.

3. Heard Mr.K.S.Jeyaganeshan learned counsel for the appellant, Mr.K.J.Sivakumar learned counsel for the first respondent and Mr.T.Ravichandran, learned counsel for the fifth respondent.

4. According to the learned counsel for the appellant, the compensation awarded to the appellant under the impugned Award is an inadequate compensation. He submits that the appellant was a Police Constable at the time of the accident and due to the accident, the appellant sustained fracture on thigh bones, which is a grievous injury. According to him, at the time of the accident, the appellant was 34 years and was earning a monthly salary of Rs.5,837/-. According to him, the disability of the appellant was assessed at 20% by the Tribunal, based on the disability certificate, which was marked as Ex.P20. But, according to him, the Tribunal has awarded only a sum of Rs.20,000/- towards the said disability. Considering the grievous injuries sustained by the appellant, according to him, the Tribunal ought to have awarded higher compensation

towards disability. Further, he would also contend that the compensation awarded by the Tribunal towards pain and suffering, loss of future earning, reimbursement of medical bills and extra nourishment charges are also very low.

5. Per contra, learned counsel for respondents 1 & 5 would submit that the accident happened in the year 2001 and no document was produced by the appellant to show that he was a Police Constable and was earning a monthly income of Rs. 5,837/- at the time of the accident. Further, he would contend that the Tribunal has awarded a sum of Rs.1,35,500/- towards medical expenses alone under the impugned Award, which is excessive, considering the nature of injuries sustained by the appellant. Therefore according to them, the compensation awarded to the appellant under the impugned Award is a just compensation.

6. This Court after having considered the materials available on record, and after examining the impugned Award and after hearing the submissions of the respective counsels, observes the following:

a) The accident happened in the year 2001. Even though the appellant claims to be a Police Constable, no document was produced by the appellant before the Tribunal to establish that he was a Police Constable and earning a sum of Rs.5,837/- as monthly income, as stated in the claim petition.

b) The Tribunal has awarded a sum of Rs.20,000/- towards disability, Rs.8,000/- towards pain and suffering, Rs.20,000/- towards loss of future income, Rs.1,35,000/- towards reimbursement of medical expenses, Rs.3,000/- towards extra nourishment charges and Rs.2,550/- towards transport charges.

c) Though the appellant was a Police Constable, no evidence has been let in by the Tribunal that he has suffered loss of income, as a result of the injuries sustained by him due to the accident. Despite that, the Tribunal has awarded a sum of Rs.20,000/- to the appellant towards loss of future income.

d) The Tribunal has also awarded a sum of Rs.1,35,500/- towards reimbursement of medical expenses. The appellant has sustained only 20% disability. Considering the nature of the disability, a sum of Rs.1,35,500/- awarded by the Tribunal towards reimbursement of medical expenses is an adequate compensation.

e) A sum of Rs.3000/- awarded by the Tribunal towards extra nourishment charges to the appellant is also an adequate compensation.

7. In the light of the above observations, this court is of the considered view that the appellant has not made out any ground before this court for enhancement of compensation. Accordingly, there is no merit in the instant appeal and the appeal is dismissed. No costs.

8. Respondents 1, 3 and 5 are directed to deposit the amount awarded by the Tribunal together with interest, as apportioned by the Tribunal, after deducting the amount that has already been deposited, to the credit of MCOP.No.110 of 2005 on the file of Additional District Judge cum Fast Track Judge- I Erode, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the appellant is directed to withdraw the amount together with accrued interest lying to the credit of MCOP.No.110 of 2005 on the file of Additional District Judge cum Fast Track Judge- I Erode by filing an appropriate application.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kyl/vsm
To

- 1.The Motor Accidents Claims Tribunal,
Additional District Judge cum Fast Track Judge- I Erode.
- 2.The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to K.S.Jeyaganeshan , Advocate SR.No. 67536
+1cc to Mr.T.Ravichandran , Advocate SR.No.67553
+1cc to Mr.K.J.Sivakumar , Advocate SR.No. 68076

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ASK(13/11/2018)

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