



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2669 of 2008

Venkatesh

...Appellant/Petitioner

Vs.

1. A. Srinivasa Murthy,
 2. G. Kasiviswanathan
 3. National Insurance Company Limited,
represented by its Branch Manager,
37/2E, Salem Main Road,
Mettur Dam R.S.Pin 636 402
- ...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accident Claims Tribunal, Subordinate Judge, Bhavani, Erode District in M.C.O.P.No.132 of 2003 dated 29.11.2006.

For Appellant	:	Mr. S.R. Gopinath
For Respondents	:	Mr.S.S.Arunkumar for R3 R1 & R2 -set exparte before tribunal

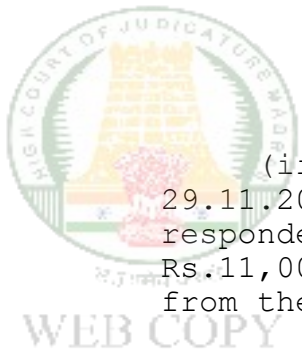
JUDGMENT

The instant appeal has been filed by the claimant seeking enhancement of compensation under the Award dated 29.11.2006 passed by the Motor Accident Claims Tribunal, Subordinate Judge, Bhavani, Erode District in M.C.O.P.No.132 of 2003.

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

(i) The appellant sustained injuries on 29.12.2002 as a result of an accident caused by a bus bearing Registration No.TN-36-E-6958 owned by the 2nd respondent and insured with the 3rd respondent.

(ii) The appellant preferred a claim before the Motor Accident Claims Tribunal seeking a compensation of Rs.3,00,000/- for the injuries sustained by him.



(iii) The Motor Accident Claims Tribunal, by its Award dated 29.11.2006 passed in M.C.O.P.No.132 of 2003, directed the third respondent Insurance Company to pay the Appellant, a sum of Rs.11,000/- together with interest at the rate of 6% per annum from the date of claim till the date of the realisation.

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

3. Heard, Mr.S.R.Gopinath, learned Counsel for the Appellant and Mr.S.S.Arunkumar, learned Counsel for the third respondent. The first respondent and second respondent have remained exparte before the tribunal. Though their names have been printed in the cause list, they remained exparte before this Court.

4. According to the learned Counsel for the Appellant, the only ground for enhancement sought for in this appeal is that the tribunal has not considered the medical bills namely Ex.P.8 while assessing the compensation payable to the appellant. According to him, as per Ex.P.8, a sum of Rs.9,575/- was incurred by the appellant towards medical expenses for taking treatment for the injuries sustained by him, as a result of the accident.

5. He drew the attention of this Court to the findings of the tribunal and submitted that the tribunal has not considered Ex.P.8 while assessing the compensation payable by the 3rd respondent to the appellant. According to him, the appellant sustained swelling around right shoulder of humerus, lacerated injury measuring 2' x 2' in the right side of the face, abrasion of the right side knee and the injury is a grievous injury.

6. Therefore, according to him, the tribunal ought to have awarded Rs.9,575/- towards medical expenses as per Ex.P.8 as compensation under the impugned award.

7. Per contra, learned counsel for the third respondent Insurance Company would submit that no discharge summary was filed by the appellant before the tribunal to prove that he was hospitalised for a period of 10 days as indicated in the medical bill Ex.P.8. Further, he would contend that the injuries sustained by the appellant is only a simple injury and not a grievous injury. Therefore, according to him, the tribunal has rightly rejected the claim for medical expenses made by the appellant.

8. 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 nature of injuries sustained by the appellant has not been disputed by the 3rd respondent before the tribunal. The only dispute made by the 3rd respondent is that the injuries sustained by the appellant is only a simple injury and not a grievous injury, but according to the appellant, it is a grievous injury.

b) It is not in dispute that the appellant produced bill from the hospital dated 7.1.2003 which is marked as Ex.P.8 before the tribunal. The wound certificate Ex.P.5 from the same hospital dated 29.12.2002 which gives details of the injuries sustained by the appellant was also marked as Ex.P.5. The Doctor's bill dated 7.1.2003-Ex.P.8 was marked as an exhibit. The tribunal has considered the said documents while assessing the compensation payable to the appellant. The occurrence of the accident is not disputed and injuries sustained by the appellant is also not disputed by the 3rd respondent. In the said circumstances, the tribunal ought to have awarded some amount of compensation towards medical expenses as the appellant would certainly have incurred medical expenses for his treatment, but in the instant case, the appellant has not produced the discharge summary from the hospital concerned for having been hospitalised between the period 29.12.2002 and 7.1.2003, but has produced only the Doctor's bill dated 07.01.2003- Ex.P.8.

c) In the considered view of this Court, the tribunal ought not to have outrightly rejected the claim for medical expenses, but should have granted some amount of compensation towards medical expenses, considering the fact that there is no dispute that the appellant has sustained injuries as a result of the accident caused by the insured vehicle. Even though no discharge summary from the concerned hospital was filed by the appellant, the tribunal ought to have given a finding on the medical bill, namely Ex.P.8 filed by the appellant before the tribunal which, the tribunal failed to do so under the impugned award.

d) Since the appellant has not produced any discharge summary from the hospital in which he was hospitalised for taking the treatment, the amount of Rs.9,575/- mentioned in the Ex.P.8 cannot be accepted in toto. In the considered view of this Court, some amount of compensation will have to be granted to the appellant towards medical expenses, which, this Court assesses the same at Rs.5000/-.

9. In the result, the Award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.132 of 2003 is enhanced in the



following manner:

Sl. No.	Amount awarded by the tribunal	Amount Awarded by this Court
Transportation charges	Rs. 1,000/-	Rs.1,000/-
Extra nourishment	Rs. 5,000/-	Rs.5,000/-
Pain and sufferings	Rs. 5,000/-	Rs.5, 000/-
Medical expenses	Rs. --- -	Rs.5,000/-
Total	Rs. 11,000/-	Rs.16,000/-

10. In the light of the above observations, this Court is of the considered view that the compensation awarded by the tribunal under the impugned award dated 29.11.2006 in MCOP.No.132 of 2003 is enhanced from Rs.11,000/- to Rs.16,000/-.

11. In the result,

i) the Civil Miscellaneous Appeal is partly allowed.
No costs.

ii) the compensation awarded by the tribunal is enhanced from Rs.11,000/- to Rs.16,000/- along with interest at the rate of 6% from the date of claim, till the date of realisation.

iii) It is represented that the entire Award amount has already been deposited before the Tribunal. The Insurance company is directed to deposit the enhanced compensation amount awarded by this Court along with interest at the rate of 6% per annum from the date of claim, till the date of realisation to the credit of MCOP.No.132 of 2003 before the tribunal.

v) On such deposit being made, the appellant is permitted to withdraw the said amount by filing an appropriate application.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



To

The Motor Accident Claims Tribunal,
Subordinate Judge, Bhavani,
Erode District

Copy to : The Section Officer, V.R.Section,
High Court of Madras

+1 cc to M/s.S.R.Gopinath, Advocate Sr.No. 72955
+1 cc to Mr.S.Arun Kumar, Advocate Sr.No.72654

AKM/14.09.19/5P- 5C /

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