

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.11.2018
CORAM:
THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.843 of 2005
and
CMP.No.4262 of 2006

Manickam ...Appellant/ Petitioner

..Vs..

1.A.Gopalakrishnan ...1st Respondent / 1st Respondent

2.The National Insurance Company Limited,
Trichy Branch-I
33, Promenade Road,
J.N. Street,
Pondicherry. ...2nd Respondent/2nd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and judgment dated 29.11.2004 passed in M.A.C.T.O.P.No.2 of 2000 on the file of the Motor Accident Claims Tribunal (Sub Court) Panruti.

For Appellant : Mr.P.Mani

For Respondents : Mr.S.Sebastin for R1
Mr.S.Vadivel for R2

JUDGMENT

The appellant is the claimant in M.C.O.P.No.2 of 2000 dated 29.11.2004 on the file of the Motor Accident Claims Tribunal (Sub Court) Panruti.

2.The brief facts of the case of the appellant/claimant is as follows:

On 05.06.1999 at about 07.30 am, the petitioner was walking at Vadalore Road. At that time, a lorry bearing Registration No.TN 46-2083 came at a high speed and hit the appellant/claimant, as a result of which, he sustained grievous injuries all over his body. He was immediately rushed to the Government Hospital, Panruti from where he was referred to Government Hospital, Cuddalore. Subsequently, he took treatment at Apollo Hospital, Chennai.

3. According to the appellant/claimant, the rash and negligent driving of the driver of the first respondent was the cause of the accident. Since, the first respondent had insured his vehicle with the second respondent Insurance Company, both the respondents are jointly and severally liable to pay the compensation. The first respondent remained absent in the trial Court. The second respondent filed a counter denying all the allegations of the appellant/claimant.

4. The learned Sub Judge, (Motor Accidents Claims Tribunal, Panruti) after analyzing the entire evidence on record, awarded a sum of Rs.4,51,810/- together with interest at the rate of 9% per annum from the date of petition till the date of deposit. Aggrieved over the quantum of compensation awarded by the learned Sub Judge, (Motor Accidents Claims Tribunal, Panruti). The appellant/claimant filed the present appeal seeking enhancement of the compensation.

5. Mr.P.Mani, the learned counsel appearing for the appellant contended that the claimant has suffered 80% disability even at the age of 22 years, and his power to earn has drastically reduced. He would, therefore, contend that the Tribunal is not right in awarding compensation of Rs.4,51,810/-

6. A perusal of the records would show that the appellant/claimant had suffered amputation of left leg below knee level and the doctor has assessed the disability as 70%. Therefore, the award amount has to be enhanced. The appellant was aged 22 years on the date of the accident and therefore, proper multiplier method to be adopted in the instant case is 18.

7. According to the claimant, he was earning a sum of Rs.4,500 per month as coolie. It is to be pointed out that the appellant/claimant did not adduce any evidence to prove his income and since the accident took place on 05.06.1999, his monthly income is fixed as Rs.2,500/- Therefore, since, the appellant has suffered amputation of left leg below his knee level, a sum of Rs.30,000/- is awarded towards pain and suffering and a sum of Rs.10,000/- for extra nourishment.

8. So far as loss of income is concerned, it is necessary to consider not only the loss of past income but also the future income. Therefore, 40% is added to the monthly income of the deceased towards future prospects. The award amount is enhanced as mentioned below:

Calculation:

$$\begin{aligned}\text{For disability} &= \text{Rs.}2,500 + 40\% * 12 * 18 * 80/100 \\ &= \text{Rs.}2,800 * 12 * 18 \\ &= \text{Rs.}6,04,800\end{aligned}$$

S.Nos.	Heads	Amount granted
1.	For disability	Rs.6,04,800/-
2.	To purchase artificial limb	Rs.2,00,000/-
3.	Loss of Amenities in life	Rs.1,00,000/-
4.	Medical Expenses	Rs.2,91,000/-
5.	Pain and suffering	Rs.30,000/-
6.	Extra nourishment	Rs.10,000/-
7.	Transportation	Rs.5,000/-
8.	Loss of earning during treatment	Rs.30,000/-
Total		Rs.12,71,610/-

9. Thus, the appellant/claimant is entitled to a compensation of Rs.12,71,610/- together with interest at the rate of 7.5% per annum from the date of claim petition, till the date of deposit.

10. In the result,

(i) The appeal is allowed and a sum of Rs.12,71,610/- (Rupees twelve lakhs seventy one thousand and six hundred ten only) is awarded to the appellant/claimant as compensation together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit. The National Insurance Company, namely, the second respondent is directed to deposit the enhanced compensation amount along with interest to the credit of M.A.C.T.O.P.No.2 of 2000 on the file of the Motor Vehicle Accident Claims Tribunal, (Sub Court) Panruti, within a period of two months from the date of receipt of a copy of this order. On such deposit being made, the appellant/claimant is entitled to withdraw the entire amount.

(ii) The claimant is directed to pay necessary Court fee for the enhanced award amount. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS iv)

<https://hcservices.ecourts.gov.in/hcservices/> //True Copy//

Sub Assistant Registrar

mbi/dna

To

1.The Motor Vehicle Accident Claims Tribunal,
(Sub Court) Panruti.

Copy to
The section officer,
VR Section,High court
Madras

+1cc to Mr. P.Mani, Advocate SR.No. 77876

+1cc to Mr.S.Vadivel , Advocate SR.No. 78098

C.M.A.No.843 of 2005

A.SK(13/05/2019)