

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1685 of 2010

P.Navaneetha
Krishnan

... Appellant/Petitioner

..Vs..

1.P.Meenakshi Sundaram
2.M/s.United India Insurance Company Limited,
No.38, Anna Salai,
Chennai-2

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment in M.C.O.P.No.2445 of 2003 dated 26.06.2007 on the file of the Motor Accident Claims Tribunal, VI Judge, Small Causes Court at Chennai

For Appellant : Mr.T.G.Balachandran

For Respondents : Mr.J.Chandran for R2
R1 - Exparte

JUDGMENT

The appellant is the claimant in M.C.O.P.No.2445 of 2003 dated 26.06.2007 on the file of the Motor Accident Claims Tribunal, VI Judge, Small Causes Court, Chennai.

2.The brief case of the claimants is as follows:

On 07.05.2003 at about 22.50 hours, the appellant/claimant was riding in his motorcycle bearing Registration No.TN-21-V-0664 on Santhome High Road in front of Deaf and Dumb school. At that time, the driver of speeding Mahindra Van bearing Registration No.TN-04-Y-0419 hit the appellant's vehicle, as a result of which, the appellant/claimant sustained grievous injuries. This was due to the rash and negligent driving of the driver of the Van. He was immediately rushed to Devaki Hospital

where he was admitted as an inpatient. The appellant/claimant was aged about 27 years and he was working as Professional Assistant in Anna University and was earning Rs.6,000/- per month. He therefore, claimed a compensation of Rs.10,00,000/- from the respondents. The first respondent remained absent before the trial court and was set ex-parte. The second respondent filed a counter denying all the allegations of the appellant/claimant.

3.The learned VI Judge, Small Causes Court, Chennai, after analysing the entire evidence on record, awarded a sum of Rs.4,33,100/- to the claimant together with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit. Aggrieved over the quantum of compensation awarded by the trial court, the claimant has filed the present appeal seeking for enhancement of the compensation.

4.Mr.T.G.Balachandran, the learned counsel appearing for the appellant would contend that the appellant/claimant was earning a sum of Rs.6,000/-on the date of the accident. In support of his contention, he has filed a xerox copy of pass book issued by Canara Bank, Anna University Branch. He also contended that the trial court had awarded only a sum of Rs.75,000/- for partial permanent disability which is assessed as 75% by Dr.Saichandran (P.W.2). He therefore, prayed this Court to award at least Rs.2,000/- per percentage under the head of compensation for permanent disability. He also prayed for enhancement of award amount under the heads pain and suffering, loss of earning and loss of income. In fact he has filed a calculation memo and sought for awarding a compensation of Rs.9,60,828.35/- to the appellant.

5. Per contra, Mr.J.Chandran, the learned counsel appearing for the Insurance Company contended that the trial court has fixed the partial permanent disability as 75% without any proof and therefore, no interference is warranted as far as the present case is concerned.

6. It is to be pointed out that the Insurance Company has not filed any appeal against the orders passed by the learned VI Judge, Court of Small Causes, Chennai.

7. A perusal of the judgment passed by the learned VI Judge, Court of Small Causes, Chennai, shows that the learned VI Judge has assigned reasons for awarding compensation amount under various heads. However, only a sum of Rs.1,000/- per % is awarded towards partial permanent disability. In the considered opinion of this Court, this amount appears to be very meagre

especially when the partial permanent disability is assessed at 75% by P.W.2. Therefore, a sum of Rs.1,50,000/- is awarded under the head of compensation for partial permanent disability.

8. The claimant has claimed a sum of Rs.36,000/- towards loss of earning for the period from 07.05.2003 to 06.11.2003. At the time of the accident, the appellant/claimant was working as Professional Assistant in Anna University earning a sum of Rs.6,000/- per month. But, the appellant/claimant did not adduce any evidence to show that he was actually earning a sum of Rs.6,000/- before the trial court. Therefore, the trial Court has fixed the income of the appellant as Rs.5,000/- per month.

9. The learned counsel appearing for the appellant has produced the xerox copy of pass book issued by Canara Bank, Anna University Branch which shows that on 02.01.2004, claimant's salary was Rs.6,000/- per month. He has also furnished his B.E. Degree and he was working as Professional Assistant in Anna University. Therefore, the loss of income for four months at the rate of Rs.6,000/- per month would come to Rs.24,000/-. The trial court in fact, had awarded a compensation under various heads as detailed below:

S.Nos.	Heads	Amount granted
1.	Loss of earnings	Rs.20,000/-
2.	Transport to hospital	Rs.1,500/-
3.	Extra nourishment charges	Rs.1,000/-
4.	Damage to clothings	Rs.5,00/-
5.	Motor Cycle damage	NIL
6.	Cost of purchase of medicine and cost of pvt. Treatment	Rs.3,00,078.35/-
7.	Loss of salary to wife, who attended him	NIL
8.	Salary to attender	NIL
9.	Future Medical expenses	NIL
10.	Compensation for pain and suffering	Rs.10,000/-
11.	Permanent Disability	Rs.75,000/-
12.	Loss of earning power	Rs.25,000/-
Total		Rs.4,33,078.35/-

10. As far as the present case is concerned, the accident took place in the year 2003 and enhancement of compensation under each head as mentioned in the synopsis filed by the appellant's counsel would be exorbitant and unreasonable. Therefore, enhancement is made only under the heads loss of income and partial permanent disability. Now, the award is enhanced as mentioned below:

S.Nos.	Heads	Amount granted
1.	Loss of earnings	24,000/-
2.	Transportation	1,500/-
3.	Extra nourishment	1,000/-
4.	Damage to clothings	500/-
5.	Medical bills	3,00,078.35 /-
6.	Compensation for pain and suffering	10,000/-
7.	Permanent Disability	1,50,000/-
8.	Loss of earning power	25,000/-
Total Rounded off		5,12,100/-

11. Thus the appellant/claimant is entitled to a compensation of Rs.5,12,100/- together with interest at the rate of 7.5% per annum from the date of claim petition, till the date of deposit.

12. In the result,

(i) The appeal is allowed and a sum of Rs.5,12,100/- (Rupees five lakhs twelve thousand and hundred 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 United India Insurance Company, namely, the second respondent is directed to deposit the enhanced amount of compensation together with interest to the credit of M.C.O.P.No.2445 of 2003 on the file of the Motor Vehicle Accidents Claims Tribunal, VI Judge, Court of Small Causes, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On such deposit being made, the appellant/claimant is at liberty to withdraw the amount.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mbi/dna

To

1.The VI Judge, Small Causes Court,
(Motor Accident Claims Tribunal),
Chennai.

2.The Section Officer,
VR Section,
High Court, Madras-104.

+1cc to Mr.J.Chandran, Advocate Sr.78068

+1cc to Mr.T.G.Balachandran, Advocate Sr.78363

C.M.A.No.1685 of 2010

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