

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2260 of 2010

Adam

... Appellant

Vs

1.E.Dilli Babu

2.The United India Insurance Company Limited,
No.38, Anna Salai, Chennai - 600 002.

... Respondents

(R1 -remained exparte)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decretal order made in M.C.O.P.No.1199 of 2006 dated 29.03.2010, on the file of the Motor Accident Claims Tribunal, IVth Court of Small Causes, Chennai.

For Appellant : Mr.M.Chinna Swamy

For Respondents : R1 - set exparte

R2 - Mr.S.Arun Kumar

J U D G M E N T

The instant appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 29.03.2010 passed by the Motor Accident Claims Tribunal, IVth Court of Small Causes, Chennai in M.C.O.P.No.1199 of 2006.

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

The Appellant sustained injuries on 21.08.2005, as a result of an accident caused by an auto rickshaw bearing Registration No.TN-07-X-1019 owned by the first respondent and insured with the second respondent. The Appellant preferred a claim before

the Motor Accident Claims Tribunal in M.C.O.P.No.1199 of 2006 seeking a compensation of Rs.3,00,000/-. The Motor Accident Claims Tribunal by its Award dated 29.03.2010 passed in M.C.O.P.No.1199 of 2006 directed the second respondent to pay the Appellant a sum of Rs.61,500/- together with interest at the rate of 7.5% per Annum from the date of claim till the date of the realisation.

3. Aggrieved by the Award dated 29.03.2010 passed in M.C.O.P.No.1199 of 2006, the instant appeal has been filed by the claimant seeking enhancement of compensation.

4. Heard, Mr.M.Chinna Swamy, learned Counsel for the Appellant and Mr.S.Arun Kumar, learned Counsel for the second respondent.

5. According to the learned Counsel for the Appellant, the compensation awarded by the Tribunal under the impugned Award to the Appellant is an inadequate compensation. According to him, Considering the age of the Appellant and his avocation at the time of the accident, the Tribunal ought to have awarded higher compensation under the various heads viz loss of earning, transportation, extra nourishment charges, medical expenses, mental agony, pain and suffering and permanent disability. Further, the Tribunal ought to have awarded compensation to the Appellant towards future medical expenses also.

6. Per contra, the learned Counsel for the second respondent Insurance Company would submit that the compensation awarded to the Appellant is a just compensation considering the fact that the Appellant did not produce any document before the Tribunal to prove that he was a newspaper distributor and was earning monthly income of Rs.5,000/-. According to him, the compensation awarded by the Tribunal towards permanent disability is also a just compensation.

7. 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 Appellant has not filed any documents before the Tribunal to prove that he was a newspaper distributor and was earning a monthly income of Rs.5,000/- at the time of the accident. Since no proof was filed, the Tribunal has rightly assessed the monthly income of the Appellant at Rs.3,500/-.

(b) The accident happened in the year 2005. The Appellant was aged 50 years on the date of the accident. The Tribunal has assessed the disability of the Appellant at 35% and awarded a sum of Rs.35,000/- towards disability compensation, calculated at the rate of Rs.1,000/- per percentage of disability. Since

the accident happened in the year 2005, this Court is of the considered view that a sum of Rs.70,000/- will have to be awarded to the Appellant towards his disability calculated at the rate of Rs.2,000/- per percentage of disability.

8. This Court is also of the considered view, that the compensation awarded by the Tribunal under the heads transportation costs and extra nourishment charges is also low. In the considered view of this Court, a sum of Rs.4,000/- will have to be awarded instead of Rs.2,000/- towards transportation costs and Rs.3,500/- instead of Rs.2,000/- will have to be awarded towards extra nourishment charges to the Appellant. In so far as other heads of compensation awarded by the Tribunal under the impugned Award, this Court does not find any infirmity.

9. In the result, the compensation awarded by the Tribunal has to be enhanced in the following manner:

Sl. No.	Amount awarded by tribunal	Enhanced award passed by this Court
Loss of earning	Rs.10,500/-	Rs.10,500/-
Transport to hospital	Rs. 2,000/-	Rs. 4,000/-
Extra nourishment	Rs. 2,000/-	Rs. 3,500/-
Medical expenses	Rs. 2,000/-	Rs. 2,000/-
Pain & suffering	Rs.10,000/-	Rs. 10,000/-
Mental agony	-	-
Permanent disability	Rs.35,000/-	Rs. 70,000/-
Total	Rs.61,500/-	Rs.1,00,000/-

10. In the light of the above observations, the amount awarded by the Tribunal is enhanced from Rs.61,500/- to Rs.1,00,000/- and the appeal is partly allowed without costs.

11. The second respondent is directed to deposit the Award amount of Rs.1,00,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit, after deducting the amount already deposited, to the credit of M.C.O.P.No.1199 of 2006 on the file of the Motor Accident Claims Tribunal, IVth Court of Small Causes, Chennai 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 permitted to withdraw the amount along with interest lying to

the credit of M.C.O.P.No.1199 of 2006 by filing an appropriate application.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

arb/kp

To

1.The Motor Accident Claims Tribunal,
IVth Judge, Court of Small Causes,
Chennai.

2.The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to M/s.Senthilswamy Associates, Advocate SR.No.66502

+1cc to Mr.S.Arunkumar, Advocate SR.No.66774

C.M.A.No.2260 of 2010

SS (CO)

GMV (08/11/2018)



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