

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3523 of 2010

Moorthi

.. Appellant/Petitioner

..Vs..

1.P.Siddan

2.New India Assurance Co. Ltd.,
Divisional Office,
Premier Complex,
Five Road, Salem - 4

.. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and decree dated 15.06.2009 made in MCOP.No.701 of 2005 on the file of the Motor Accident Claims Tribunal, Additional District Judge, FTC I, Salem.

For Appellant : Mr.K.Kuppusamy

For Respondent 2 : Mrs.R.Srividhya
Respondent 1 is set ex parte

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 15.06.2009 passed by the Motor Accident Claims Tribunal (Additional District Judge, FTC I, Salem), in MCOP.No.701 of 2005.

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

2. The Appellant sustained injuries as a result of an accident that took place on 17.03.2005 caused by a lorry bearing registration No.KA01-B-897 owned by the first respondent and insured with the second respondent. The Appellant preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.701

of 2005 seeking a compensation of Rs.10,00,000/-. The Motor Accident Claims Tribunal by its Award dated 15.06.2009 directed the second respondent to pay the Appellant a sum of Rs.2,01,919/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

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

4. Heard Mr.K.Kuppusamy, learned counsel for the appellant and Mrs.R.Srividhya, learned counsel for the second respondent insurance company. The first respondent has remained ex parte both before the Tribunal as well as before this Court.

5. According to the learned counsel for the appellant the quantum of compensation awarded by the Tribunal under the impugned Award to the Appellant is an inadequate compensation. According to the learned counsel for the Appellant, the Appellant was a lab technician, aged 31 years and he was earning a monthly income of Rs.10,000/- at the time of the accident. The learned counsel for the Appellant further contends that the accident happened in the year 2005 and the Tribunal has assessed the disability at 60% but awarded only a sum of Rs.60,000/- as compensation toward partial permanent disability. According to the learned counsel for the Appellant, adequate compensation was not granted to the Appellant towards partial permanent disability.

6. Per contra, learned counsel for the second respondent would submit that the assessment of disability of the Appellant by the Tribunal is excessive, even though the Appellant had produced the disability certificate before the Tribunal, which was marked as Ex.P14.

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 nature of injuries sustained by the Appellant as a result of the accident caused by a vehicle insured with the second respondent is not disputed by the second respondent before the Tribunal.

b) Admittedly, the Appellant was a lab technician and he was aged 31 years, at the time of the accident. Even though the Appellant has claimed that he was earning a monthly income of Rs.10,000/-, no document was produced by the Appellant before

the Tribunal to prove his monthly income.

c) The Tribunal has awarded a lump sum compensation towards disability suffered by the Appellant at Rs.60,000/- for 60% disability as per Ex.P14. The year of the accident is 2005. Considering the year of the accident, this Court is of the considered view that the compensation awarded towards disability will have to be enhanced to Rs.1,20,000/- calculated at the rate of Rs.1,000/- per percentage of disability.

d) Even though, the Tribunal has awarded Rs.20,000/- towards Grievous injuries and has also separately awarded Rs.3,000/- towards Simple injuries which may amount to double compensation. In the instant case, the Tribunal has not awarded any amount towards extra nourishment and transportation charges. In the considered view of this Court, the compensation awarded towards grievous injuries and also towards simple injuries will have to be adjusted towards Extra Nourishment and Transportation costs.

e) In respect of all other heads granted under the impugned Award, this Court does not find any infirmity.

8. In the light of the above observations, this Court is of the considered view that the Award passed by the Tribunal has to be enhanced from Rs.2,01,919/- to Rs.2,61,919/- and the second respondent, Insurance Company is directed to deposit the modified Award amount of Rs.2,61,919/- together with interest at the rate of 7.5% per annum, after deducting the amount that has already been deposited by them to the credit of MCOP.No.701 of 2005 on the file of the Motor Accident Claims Tribunal, Additional District Judge, FTC I, Salem, within a period of four weeks from the date of receipt of a copy of the order. On such deposit being made, the Appellant is permitted to withdraw the amount lying to the credit of MCOP.No.701 of 2005 along with accrued interest by filing an appropriate application.

9. Accordingly, the Civil Miscellaneous Appeal is partly allowed without costs.

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Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
Additional District Judge, FTC I,
Salem

+1cc to M/s.R.Sreevidhya, Advocate SR.No.67899

+1cc to Mr.K.Kuppusamy, Advocate SR.No.67385

C.M.A.No.3523 of 2010

SSD (CO)

GMV (26/11/2018)



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