



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.796 of 2010

T.Ponnudurai

...Appellant/Petitioner

Vs

1.Ramesh

2.M/s.United India Insurance Company Limited,

C/o.Motor Third Party Claims Offices,

No.38, Anna Salai, Chennai-2.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree made in MCOP No.3935 / 2005 on the file of Motor Accident Claims Tribunal, V Small Causes Court at Chennai dated 10th day of September 2009.

For Appellant : Mr.T.G.Balachandran

For Respondents : R1 - Exparte

Mr.N.Vijayaraghavan for R2

J U D G M E N T

The instant appeal has been filed challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, V Small Causes Court at Chennai in M.C.O.P.No.3935 of 2005.

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

(i)The Appellant sustained injuries on 04.08.2005 as a result of an accident caused by a vehicle bearing Registration No.TN-07-A-7350 owned by the first respondent and insured with the second respondent.

(ii)The Appellant preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.3935 of 2005, seeking a compensation of Rs.3,00,000/-.



WEB COPY

(iii) The Motor Accident Claims Tribunal by its Award dated 10.09.2009 in M.C.O.P.No.3935 of 2005, directed the second respondent to pay the Appellant a sum of Rs.1,25,900/- together with interest at the rate of 9.5% per annum from the date of claim till the date of realization.

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.T.G.Balachandran, learned Counsel for the Appellant and Mr.N.Vijayaraghavan, learned Counsel for the second respondent.

5. According to the learned Counsel for the Appellant, the Tribunal has erroneously not applied the multiplier method in assessing the disability, even though, the Appellant who was a salesman in a shop was earning a monthly salary of Rs.6,000/- at the time of the accident and had suffered 50% permanent disability.

6. According to the learned Counsel for the Appellant, the salary certificate of the Appellant from his employer was marked as Exhibit P9 before the Tribunal. But the Tribunal has erroneously assessed the monthly income of the Appellant only at Rs.4,000/- even though, he was earning a monthly salary of Rs.6,000/- at the time of the accident.

7. According to the learned Counsel for the Appellant, the Tribunal also not adequately compensated the Appellant towards transport charges, extra nourishment charges, pain and suffering and loss of amenities. Further, he would contend that no compensation was awarded by the Tribunal towards future medical expenses and loss of earning capacity.

8. Per contra, learned counsel for the second respondent Insurance Company would submit that considering the age of the Appellant and considering the nature of the injuries sustained by the Appellant as a result of the accident, the Tribunal has awarded a just compensation to the Appellant.

9. This Court after having considered the materials available on record and after examining the impugned Award and after personally having seen the Appellant in the open Court and after hearing the submissions of the respective Counsels observes the following:

(a) It is an undisputed fact that the accident happened only due to the rash and negligent driving by the driver of the vehicle insured with the second respondent Insurance Company.



(c) The Appellant has also filed the discharge summary from the Government General Hospital as well as from the Private Hospital which were marked as Exs.P2 and P3 before the Tribunal. The salary certificate of the Appellant issued by Meenakshi store at Adyar, Chennai, who was his employer at the time of the accident was also marked as Ex.P7 before the Tribunal. The Tribunal has also examined two witnesses on his side namely, himself as well as his Doctor PW2. On the side of the second respondent, no document was filed and no witness was examined.

11. In the result, the Award passed by the Tribunal in MCOP No.3935 of 2005 dated 10.09.2009, is enhanced in the following manner:

S.No.	Heads	Compensation awarded by the Tribunal	Modified amount
1	Loss of earnings 04.08.2005 to 03.02.2006 (Rs.4,000/-x 5 months)	Rs.20,000/-	Rs.27,000/- (Rs.4,500/-x6m)
2	Transport to hospital	Rs.2,000/-	Rs.7,000/-
3	Extra Nourishment Charges	Rs.2,000/-	Rs.7,500/-
4	Damage to clothing	Rs.500/-	Rs.500/-
5	Medical expenses	Rs.38,400/-	Rs.38,400/-
6	Future Medical Expenses	Nil	Rs.15,000/-
7	Loss of amenities in life	Rs.3,000/-	Rs.25,000/-
8	Compensation for pain and suffering	Rs.10,000/-	Rs.25,000/-
9	Permanent Disability	Rs.50,000/-	Nil
10	Loss of earning power	Nil	(Rs.4,500 + Rs.1,125x12x25x 14=2,36,250
	Total	Rs.1,25,900/-	Rs.3,81,650/-



12. 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 10.09.2009 in M.C.O.P.No.3935 of 2005 has to be enhanced from Rs.1,25,900 to Rs.3,81,650/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization. The second respondent is directed to deposit Rs.3,81,650/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.3935 of 2005, on the file of the Motor Accident Claims Tribunal, V Small Causes Court at Chennai, within a period of four weeks from the date of receipt of copy of this order. On such deposit being made, the Appellant is permitted to withdraw the said sum by filing an appropriate application. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

kyl/pam

To

1. The Motor Accident Claims Tribunal,
V Small Causes Court at Chennai.

+1 cc to Mr.T.G.Balachandran, Advocate, S.R.No.65547

+1 cc to Mr.M.B.Gopalan Associates, S.R.No.66370

C.M.A.No.796 of 2010

SSD(CO)
SSM(26/12/2018)