

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1687 of 2011

N.Ravi ... Appellant/ Petitioner

..Vs..

1.M.Mehaboob Ahamed

2.National Insurance Co. Ltd.,
No.751, Anna Salai,
Chennai - 600 002. ... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment in M.C.O.P.No.2536 of 2005 dated 09.08.2010 on the file of the IV Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Mr.A.Shanmugaraj

For Respondents : No appearance for R1
Mr.S.Arun Kumar for R2

JUDGMENT

The appellant is the claimant in M.C.O.P.No.2536 of 2005 on the file of the IV Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai. The claimant filed the above petition seeking for awarding of compensation of Rs.2,50,000/- for the injuries sustained by him, in a road accident that took place on 21.02.2004.

2.The brief facts of the case of the appellant/claimant in a nut-shell are as follows:

On 21.02.2004, the appellant was riding his cycle along Kodambakkam High Road. At about 06.00 PM., an Auto bearing Registration No.TN-01-Q-6639 belonging to the first respondent hit the appellant/claimant, as a result of which, he sustained grievous injuries. Immediately, he was rushed to Government Hospital.

3. According to the appellant/claimant, the rash and negligent driving of the driver of Auto was the cause of the accident and that since the owner of the Auto had insured his vehicle with the second respondent/National Insurance Company Limited, both the respondents are jointly and severally liable to pay the compensation to the claimant.

4. The respondents resisted the claim petition by filing their counters respective.

5. The trial Court after analysing the evidence on record, awarded a compensation of Rs.34,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Aggrieved over the quantum of compensation awarded by the tribunal, the appellant/claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, seeking for enhancement of compensation amount.

6. Mr.A.Shanmugaraj, the learned counsel appearing for the appellant would contend that as per the petition filed under Section 163-A of the Motor Vehicles Act, the trial Court should have adopted multiplier method and that the award amount passed by the trial Court is very meagre.

7. A perusal of the medical records shows that the appellant/claimant has sustained a fracture on right wrist. He took native treatment at Puthur. Dr.N.Saichandran (PW2) has assessed the partial permanent disability at 30%. However, the tribunal considering the nature of injuries sustained by the appellant/claimant has reduced the partial permanent disability to 20% and awarded a compensation Rs.20,000/- towards partial permanent disability.

8. The Tribunal while reducing the percentage of the disability did not assign any reason and therefore, the partial disability, as assessed by PW2, has to be taken up for calculation of partial permanent disability.

9. As far as the present case is concerned, there is no functional disability and therefore, multiplier method need not be adopted. Therefore, a sum of Rs. 60,000/- is awarded towards partial permanent disability (30 x 2,000). The Tribunal has awarded only a sum of Rs.2,000/- for extra nourishment and this can be enhanced to Rs.5,000/-. The following tabular column would show the enhanced award amount under various heads:-

S.Nos.	Heads	Amount awarded by the Tribunal	Amount awarded by this Court
1.	Loss of Income	3,000/-	3,000/-
2.	Transport expenses	2,000/-	2,000/-
3.	Extra-nourishment	2,000/-	5,000/-
4.	Medical expenses	2,000/-	2,000/-
5.	Pain and Sufferings	5,000/-	5,000/-
6.	Permanent Disability	20,000/-	60,000/-
Total		Rs.34,000/-	Rs.77,000/-

10. Thus, the appellant/claimant is entitled to a sum of Rs.77,000/- together with interest at the rate of 7.5% per annum from the date of filing the claim petition till the date of deposit. The second respondent is directed to deposit the enhanced compensation amount, along with interests and costs, less the amount already deposited by them, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the appellant/claimant is at liberty to withdraw the entire amount with interest after following the due process of law.

11. With the above observations, the Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gsi/dna

To

The IV Judge,
Small Causes Court (Motor Accidents Claims Tribunal),
Chennai.

2. The section officer,
VR Section,
High court, Madras

+1cc to Mr.A.Shanmugaraj , Advocate SR.No.81490

+1cc to Mr.S.Arun Kumar , Advocate SR.No. 82023

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A.SK(11/01/2019)

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