



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1004 of 2011 &
MP.No.1 of 2011

The Director,
Vigilance and Anticorruption,
Chennai.

...Appellant/Respondent

Vs

R.Sayee

...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.06.2010, passed by the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai made in M.C.O.P.No.3412 of 2005.

For Appellant : Mr.S.Jaganathan
Government Advocate (CS)

For Respondent : Mr.K.Suryanarayanan

JUDGMENT

The instant appeal has been filed challenging the Award dated 22.06.2010, passed by the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai in M.C.O.P.No.3412 of 2005.

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

(i)The respondent sustained injuries as a result of an accident caused by a Police Jeep bearing Registration No.TN-01-G-7677 owned by the Appellant.

(ii)The respondent preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.3412 of 2005, seeking a compensation of Rs.4,00,000/-.

(iii)The Motor Accident Claims Tribunal, by its Award dated 22.06.2010, directed the Appellant to pay the respondent a sum of Rs.2,03,085/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization and also awarded costs.



3. Aggrieved by the Award dated 22.06.2010, passed by the Motor Accident Claims Tribunal in M.C.O.P.No.3412 of 2005, the instant appeal has been filed by the Appellant.

4. Heard Mr.S.Jaganathan, learned Government Advocate (CS) for the Appellant and Mr.K.Suryanarayanan, learned Counsel for the respondent.

5. According to the learned Counsel for the Appellant, the Tribunal erroneously did not fix the contributory negligence on the side of the respondent. Further, without any age proof, the age of the respondent was fixed by the Tribunal at 21 years. The Tribunal also erred in fixing partial permanent disability as 50%.

6. According to the learned Counsel of the Appellant, the Tribunal has not considered all the above mentioned relevant factors while assessing the compensation payable to the respondent.

7. Per contra, the learned Counsel for the respondent would submit that the compensation awarded by the Tribunal to the respondent is a just compensation. According to him the respondent sustained fracture of both the bones in the right leg which is now malunited.

8. According to the learned Counsel, a steel plate and screws were inserted while surgery was performed on the leg of the respondent. According to the learned Counsel for the respondent, there is a clear finding given by the Tribunal that the accident happened only due to the rash and negligent driving by the driver of the jeep owned by the Appellant.

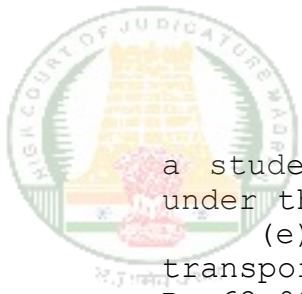
9. This Court after having considered the materials available on record and after having examined the impugned Award and after hearing the submissions of the respective counsels observes the following:

(a) The nature of the injuries sustained by the respondent as a result of the accident caused by the jeep owned by the Appellant is not disputed by the Appellant before the Tribunal.

(b) Even though no age proof was produced by the respondent, the Tribunal has relied upon the discharge summary which is Ex.P.3 for having come to the conclusion that the respondent is aged 21 years.

(c) Steel plate and screws were inserted while surgery was performed on the respondent. This fact has also not been disputed by the Appellant before the Tribunal.

(d) The respondent was a B.Pharm student at the time of the accident. No contra evidence has been produced by the Appellant to disprove the said contention of the respondent. Since he was



a student, the Tribunal has rightly disallowed loss of income under the impugned Award.

(e) The Tribunal has awarded Rs.2,000/- towards transportation cost, Rs.3,000/- toward extra nourishment, Rs.62,085/- towards medical expenses, Rs.20,000/- towards future medical expenses, Rs.1,000/- towards cost of attender charges, Rs.15,000/- towards pain and suffering and Rs.1,00,000/- towards 50% of disability suffered by the respondent at the rate of Rs.2,000/- per percentage of disability.

(f) The accident happened in the year 2004 and therefore the compensation awarded under various heads is a just compensation considering the nature of injuries sustained by the respondent and his educational qualification.

(g) The respondent has filed ten documents which were marked as Ex.P.1 to Ex.P.10 before the Tribunal and has also examined two witnesses P.W.1 and P.W.2. On the side of the Appellant, no documents were filed and only one witness was examined. Even though the respondent had made a claim for Rs.4,50,000/- the Tribunal after considering the oral and documentary evidence, has awarded only a sum of Rs.2,03,085/- in favour of the respondent.

10. In the light of the above observations, this Court is of the considered view that there is no merit in the instant appeal. Accordingly, the appeal is dismissed. Consequently, the connected miscellaneous petition is closed. However, there shall be no order as to costs.

13. It is represented that the entire award amount has already been deposited to the credit of MCOP. The respondent is permitted to withdraw the same on filing an appropriate application.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mtl/msr

To

The Motor Accident Claims Tribunal

(III Court of Small Causes), Chennai.

+ 1 cc to Mr. K. Suryanarayanan, Advocate Sr.63003

+ 1 cc to the Government Pleader Sr.62843

C.M.A.No.1004 of 2011 &MP.No.1 of 2011

SSD(CO)

EU(26/11/2018)