

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1260 of 2009

Alavudeen

... Appellant/Claimant

..Vs..

1. Director,
Rural Development Office,
Panagal Building, Saidapet,
Chennai.

2. District Collector,
Nagapattinam.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against fair and decretal order made in M.C.O.P.No.262 of 2007, dated 26.02.2009, on the file of Motor Accident Claims Tribunal (Subordinate Judge), Nagapattinam.

For Appellant : Mr.A.E.Ravi Chandran

For Respondents: Mr.S.R.Rajagopal, AAG assisted by
Ms.A.Madhumathy
Addl. Government Pleader (CS)
For R1 & R2

J U D G M E N T

The instant appeal has been filed by the claimant challenging the Judgment and decree dated 26.02.2009 passed by the Motor Accident Claims Tribunal (Subordinate Judge), Nagapattinam in MCOP No.262 of 2007 and has sought for enhancement of compensation.

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

2. The appellant is owning a grocery shop and supporting his grand-children out of the income arising from the grocery shop. On 27.03.2007, he met with an accident caused by a vehicle belonging to the first respondent bearing registration No.TN09 G

0744. According to the appellant, due to the rash and negligent driving of the driver of the vehicle, the accident happened which resulted in causing grievous injuries on the body of the appellant. The appellant made a claim against the respondents seeking compensation of Rs.5,00,000/- before the Motor Accident Claims Tribunal (Subordinate Judge), Nagapattinam in MCOP No.262 of 2007. The Motor Accident Claims Tribunal (Subordinate Judge) Nagapattinam by its judgment and decree dated 26.02.2009 in MCOP No.262 of 2007 directed the respondents to pay the appellant a sum of Rs.10,000/- together with interest at 7.5% from the date of claim till the date of realization as well as awarded cost of Rs.1,000.

3. Aggrieved by the quantum of compensation awarded by the tribunal, the appellant has preferred this instant appeal seeking enhancement of compensation.

4. Heard Mr. A.E.Ravi Chandran learned counsel of the appellant and Ms.A.Madhumathy, learned Additional Government Pleader for the respondents.

5. According the learned counsel for the appellant, the Tribunal has not considered all the documents, which were marked as exhibits, filed by the appellant in support of his claim.

6. The learned counsel for the appellant submitted that despite establishing before the tribunal that the appellant suffered 51% disability by producing disability certificate which was marked as Ex.P9, the tribunal did not consider the said document, even though no contra evidence was produced by the respondents to disprove the percentage of disability suffered by the appellant on account of the accident.

7. According to the learned counsel of the appellant, arbitrarily without any basis, the Tribunal awarded only a meagre compensation of Rs.10,000/-, even though the claim made by the appellant before the Tribunal was for a sum of Rs.5,00,000/-.

8. The learned counsel for the appellant further contended that despite medical bills were filed for a sum of Rs.44,846/- and for a sum of Rs.78,100/- which were marked as Ex.P7 and Ex.P11 respectively, the learned Tribunal has not considered the said medical bills, before coming to the conclusion that the appellant is only entitled for a sum of Rs.10,000/-. According to the learned counsel for the appellant, no contra evidence has been produced by the respondents to disprove the medical bills submitted by the appellant is not a genuine one.

9. Per contra, the learned Additional Government Pleader for the respondents would submit that the award is a well considered

and reasoned award and therefore, no interference is called for.

10. This Court after considering the materials available on record and after examining the impugned award and after hearing the submissions of the respective counsels, observes the following:

a. As rightly contended by the learned counsel for the appellant, the tribunal has not considered the discharge certificate issued by the hospital, the medical bills submitted by the appellant in support of his claim and disability certificate confirming 51% disability on account of the injury suffered by the accident.

b. The findings of the tribunal that there was no evidence produced by the appellant to show that after the accident, the appellant got treatment at Thanjavur Medical College Hospital, Tanjore for about three days is an erroneous finding, since the appellant has produced medical bills and the disability certificate has also been marked as exhibits, which will clearly confirm that the appellant on account of the injuries suffered by him had undergone medical treatment and has also suffered 51% disability, as a result of the accident which caused grievous injuries to him.

c. The quantum of compensation awarded by the tribunal is also meagre and the Tribunal has not considered the exhibits which were marked on the side of the appellant which will clearly reveal that the appellant had spend considerable amount towards his treatment as evidenced by the medical bills. The discharge certificate as well as the disability certificate were also not considered by the tribunal.

11. In view of the above observations, this Court is of the considered view that the award of Rs.10,000/- in favour of the appellant is a meagre amount and does not adequately compensate the appellant for the loss suffered by him on account of the injuries arising out of the accident.

12. This Court is of the considered view that the compensation awarded by the Tribunal is enhanced in the following manner:

a) Towards loss of income,
on account of 51% disability calculated
at the rate of Rs.1500 per percentage
of disability Rs.76,500/- (Rs.1500x51).

b) Towards reimbursement of medical
bills as per Exs. p7 series and p11
series total Rs.1,22,946.
Total Rs.1,99,446.

13. In the result, award dated 26.02.2009 passed by the tribunal is hereby modified by enhancing the compensation payable to the Appellant from Rs.10,000/- to Rs.1,99,446/- together with interest at 7.5% per annum on the enhanced amount and the respondents are directed to deposit the enhanced amount together with interest at 7.5% per annum from the date of claim till the date of deposit to the credit of MCOP.No.262 of 2007 on the file of the learned Motor Accident Claims Tribunal (Subordinate Judge), Nagapattinam within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is entitled to withdraw the amount with accrued interest by filing necessary application.

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

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vji/nl

To

1.The Subordinate Judge,
(Motor Accident Claims Tribunal)
Nagapattinam.

Copy to:

The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.A.E.Ravi Chandran, Advocate sr.no.56563
+1cc to Additional Government Pleader(CS), SR.NO.56278

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PA(CO)
NR 10/10/2018