

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 14.12.2017	Delivered on: 19.04.2018
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CORAM

THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

C.M.A.No.1580 of 2007

K.Chandran

.. Appellant /Petitioner

-Vs-

1.M/s.D.J.Business Services Pvt. Ltd.,
No.20, Chachi Towers, 50, Residency Road,
Bangalore 560 025, Karnataka State.

2.The Divisional Manager
National Insurance Company Limited
D.O.United Building Annexe,
72, Mission Road, Bangalore 560 027.
Karnataka State.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside the order and decreetal order dated 21.07.2006 passed by the Motor Accidents Claims Tribunal, Dharmapuri at Krishnagiri (Chief Judicial Magistrate Court-2) in M.C.O.P.No.499 of 2004.

For Appellant .. Mr.P.Rajendran
For R2 .. Mr.S.Arunkumar

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the judgment and decree passed in M.C.O.P.No.499 of 2004 on the file of the learned Chief Judicial Magistrate Court-2 Motor Accidents Claims Tribunal, Dharmapuri.

2. The brief facts of the claim application is that on 29.12.2002 at about 1.30 p.m, the claimant-injured person while walking on the road towards Attibele Village a Maruthi Car bearing Registration No.KA-04/P-20 driven by its driver in a rash and negligent manner dashed against the claimant and caused an accident, due to which the claimant sustained injuries. The claimant was admitted in Sanjay Gandhi Hospital, Bangalore,

where he had taken treatment as an in-patient and thereafter, he took treatment in a private hospital in Hosur. For the injuries sustained, the claimant has claimed a sum of Rs.1,00,000/-, before the Tribunal as compensation.

3. The Tribunal after verifying the evidence and documents on both sides and considering the medical reports and relevant documents and also disability certificate issued by the Doctor, as against the claim of Rs.1,00,00/- awarded a sum of Rs.47,000/- under the following heads:-

(a) For the Disability	Rs.25,000/-
(b) For Medical Expenses	Rs.10,000/-
(c) For Pain & Sufferings	Rs.10,000/-
(d) For Transport & Nourishment Food	Rs. 2,000/-
	Rs.47,000/-

4. The claimant who is aggrieved against the award, has preferred this appeal on the ground that the Tribunal erred in limiting the compensation amount to Rs.47,000/- and the disability has been taken as 25% as against 40% for which, no valid reason has been given. It is also the grievance of the appellant that he sustained fracture of two bones in his right leg. The Tribunal ought to have accepted the disability as per certificate issued by PW2 at 40%. The Tribunal has not considered the loss of earnings of the appellant who is a Mason by occupation and the sum awarded by the Tribunal towards medical expenses as Rs.10,000/- is also very much low.

5. On a perusal of the records, evidence and documents filed by both sides, it is found that PW2 has given the disability certificate at 40%. There is no reference made by PW2 for any surgery undergone by the appellant/claimant. Further, the Tribunal had observed that only after three years of accident, the disability certificate was issued by PW2. Even in that certificate, PW2, has referred simply as ("tyJ fhypy; Vw;gl;l vYk;g[Kwpt[jw;rkak; Toa[s;sJ"). Hence, the Tribunal had properly considered that there is only one grievous injury sustained by the claimant and determined the disability at 25% which is quite reasonable. There is also no reference to the fact that the claimant was under treatment for certain time and that he had incurred loss of income was not proved by the claimant before the tribunal. Further, it is observed that no document has been filed by the appellant for the medical expenses incurred by him. However, the Tribunal had awarded Rs.10,000/- for medical expenses which is also reasonable, since the Tribunal found that definitely the appellant would have incurred a reasonable amount for his treatment. Further, the

amount awarded for pain and sufferings at Rs.10,000/- and Rs.2,000/- for transport and nourishment are also reasonable. On the whole, the Tribunal is award to the tune of Rs.47,000/- is quite reasonable.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed as the award passed by the Tribunal, does not require any modification. No costs.

7. The second respondent/Insurance Company is directed to deposit the entire award amount with interest and cost, if not already deposited before the Tribunal within a period of four weeks from the date of receipt of a copy of this order. On such deposit claimant is permitted to withdraw the same.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

dna

To

- 1) The Motor Accidents Claims Tribunal -
Chief Judicial Magistrate Court-2,
Dharmapuri.
- 2) The Section Officer,
V.R.Section,High Court,
Madras - 104. (2 Copies)

+1cc to Mr.P.Rajendran, Advocate SR.No.29104
+1cc to Mr.S.Arun Kumar, Advocate SR.No.29155

C.M.A. No.1580 of 2007

KJ(CO)
GN(06/06/2018)

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