

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.08.2018
CORAM
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1598 of 2009

Saminathan

.. Appellant/Petitioner

..Vs..

1.K.Nallusamy

2.M/s. The New India Assurance Co. Ltd.,
No.66, W.B.Road,
Trichy-8.

..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against decree and judgment dated 06.04.2009, made in MCOP. No.229 of 2007 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Perambalur.

For Appellant : Mr.C.Prabakaran
For Respondent 1: No appearance
For Respondent 2: Mr.J.Chandran

J U D G M E N T

The instant appeal has been filed by the claimant seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Perambalur by its Judgement and Decree dated 06.04.2009 in MCOP. No.229 of 2007.

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

2. The appellant while traveling in a load auto as loadman suffered injuries on account of rash and negligent driving by the driver of the load auto. As a result of the injuries suffered by the appellant, he made a claim of Rs.4,00,000/- before the Motor Accident Claims Tribunal, Perambalur in M.C.O.P.No.229 of 2007. The Motor Accident Claims Tribunal, Perambalur, by its Judgment and Decree dated 06.04.2009 passed in MCOP. No.229 of 2007, partly allowed the claim and awarded a compensation of Rs.70,000/- together with interest at the rate of 7.5% from the date of claim till the date of realization with costs in favour of the appellant.

3. Aggrieved by the compensation awarded by the tribunal, the instant appeal has been filed by the appellant/claimant seeking enhancement of compensation.

4. Heard Mr.C.Prabakaran learned counsel of the appellant and Mr.J.Chandran, learned counsel for the second respondent.

5. The learned counsel for the appellant submitted that the compensation awarded by the Tribunal is a meagre amount which is not commensurate with the actual loss that the appellant has suffered on account of the accident.

6. The learned counsel for the appellant submitted that even though the accident resulted in 37% disability of the appellant, the Tribunal has awarded only Rs.30,000/- towards disability. Further the learned counsel for the appellant submitted that even though the medical bills were filed in support of the medical expenses incurred by the appellant which was marked as Ex.P3, the Tribunal has arbitrarily fixed only a sum of Rs.15,000/- towards medical expenses.

7. The learned counsel for the appellant drew the attention of this Court to the findings of the Tribunal and pointed out that without any basis, the Tribunal has awarded a lesser amount, though the appellant is entitled for a higher compensation which is also supported by documents marked as Exhibits. The learned counsel for the appellant further submitted that no amount has been awarded towards transportation and extra nourishment, which the appellant is legally entitled to.

8. Per contra, the learned counsel for the second respondent would contend that the compensation fixed by the Tribunal is only based on the evidence available before the Tribunal and therefore, no interference is called for from this Court to the Award passed by the Tribunal.

9. This Court, after having considered the materials available on record and after hearing the submissions of the respective counsels, is of the considered view that the Tribunal has not considered the medical bills submitted by the appellant which was marked as Ex.P3. Even though the medical bills amounting to Rs.43,138/- were furnished, the Tribunal has fixed the compensation for medical expenses incurred by the appellant only at Rs.15,000/-, without any basis. Further, the compensation awarded towards disability was fixed at Rs.30,000/-, even though the percentage of disability of the appellant is 37% as evidenced by Ex.P6. The Tribunal has also not awarded any compensation towards transportation and extra

nourishment.

10. Considering all these factors, this Court is of the considered view that the compensation for disability is enhanced from Rs.30,000/- to Rs.55,000/-, reimbursement of medical expenses is enhanced from Rs.15,000/- to Rs.43,138/-, Rs.5,000/- is awarded towards transportation and another sum of Rs.5,000/- is awarded towards Extra Nourishment expenses. The award passed by the Tribunal is modified by this Court in the following manner:

Heads	Amount Awarded by the Tribunal	Modified Amount
Disability	Rs.30,000/-	Rs.55,000/-
Medical Expenses	Rs.15,000/-	Rs.43,138/-
Pain and sufferings	Rs.15,000/-	Rs.15,000/-
Loss of income	Rs.10,000/-	Rs.10,000/-
Transport	Nil	Rs.5,000/-
Extra Nourishment	Nil	Rs.5,000/-
Total	Rs.70,000/-	Rs.1,33,138/-

11. In the result, the judgment and decree dated 06.04.2009 passed in MCOP No.229 of 2007 by the learned Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur is hereby modified by directing the second respondent to deposit the enhanced amount of Rs.63,138/- (Rs.1,33,138-70,000) together with interest at 7.5% per annum from the date of claim till the date of deposit to the credit of MCOP. No.229 of 2007 on the file of the learned Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur within a period of four weeks from the date of receipt of a copy of this Order. On such deposit being made, the appellant/claimant is entitled to withdraw the amount with accrued interest by filing necessary application.

12. Accordingly, the Civil Miscellaneous Appeal is disposed of. No costs.

Sd/--
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

nl

To

1.The Chief Judicial Magistrate
Motor Accidents Claims Tribunal,
Perambalur.

+lcc to Mr.C.Prabakaran, Advocate SR.NO.56148

+lcc to Mr.J.Chandran, Advocate SR.NO.56043

VGII(CO)

sm:17.9.2018

C.M.A.No.1598 of 2009



WEB COPY