

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.09.2018

CORAM

THE HONOURABLE MRS.JUSTICE S. RAMATHILAGAM

CMA No.2157 of 2007

Vetri Kumar

... Petitioner/ Appellant

Versus

1. V. Ravichandran

2. Visalakshi Transport Services,
27, Sivananda Colony,
Tatabirth, Coimbatore - 12.

3. United India Insurance Co. Ltd.,
Branch Office,
Post Box No.541,
No.95, Sukkiravarpet,
Coimbatore.

.... Respondents/Respondents

Prayer:Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 18.09.1997 in MCOP No.550/93 on the file of the Motor Accident Claims Tribunal Cum Sub-Court, Coimbatore.

For Petitioner : Mr.S.Gunalan

For Respondents : Ms.R.Sreevidhya for R3

JUDGMENT

This Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 18.09.1997 in MCOP No.550/93 on the file of the Motor Vehicles Accident Claims Tribunal Cum Sub-Court, Coimbatore.

2. The brief facts of the claim petition are as follows :-

On 03.11.1992 at 9.30 p.m. the injured / claimant, who is working in a private chit fund, earning a sum of Rs.120/- per day has driven the two wheeler (Silver Plus) along with a pillion rider. At that time, the driver of the bus belonging to the second respondent has driven the vehicle in a rash and negligent manner and dashed against the two wheeler of the claimant / appellant. Due to the said accident, the claimant sustained grievous injuries and sustained fracture in his left leg. He underwent treatment as inpatient in Ramakrishna

hospital and due to the accident, the appellant sustained permanent disability. Hence, the injured has filed petition before the Tribunal, claiming a sum of Rs.8,00,000/- as compensation.

3. The Tribunal after analyzing the documents and evidence has awarded a sum of Rs.1,02,360/- and the break up details are as under :-

	Rs.
Loss of income	: 9,460/-
Nutrition	: 3,000/-
Permanent Disability as per the Report of PW2 @ 45%	: 40,000/-
Medical expenses	: 15,000/-
Pain and sufferings	: 10,000/-
Loss of earning capacity	: 25,000/-
Total	----- 1,02,460/- -----

4. Heard both sides and perused the document available on records.

5. The learned counsel for the appellant has argued that the Tribunal has not considered the disability sustained by the appellant and the evidence of the medical expert. It is his further argument that the nature of injury sustained by the appellant / claimant due to the surgery done in the skull was also not considered by the Tribunal. Hence, the claimant / appellant has filed this appeal challenging the award as inadequate.

6. On a perusal of records, it is observed that the claimant has sustained grievous injuries due to the said accident. Further, Dr.Paramasivam has been examined as PW2, who assessed the percentage of disability. According to him, the claimant suffered 45% of permanent disability, Ex.P9 is the Disability certificate. Ex.P10 relates to the history of treatment given to the claimant / appellant. Further, it is the evidence of the Doctor that a portion of the skull area has been removed and the disability caused due to the said injury in the brain is permanent. Though it is very much clear from the evidence of the doctor PW2 that the disability caused to the claimant is serious in nature, the tribunal has awarded only a sum of Rs. 40,000/- for the disability of 45%. Hence, this Court inclined to enhance the amount awarded by the Tribunal under the head disability. Accordingly, this Court enhances the award in addition to Rs.40,000/- already awarded by the tribunal by fixing Rs.1650/- per percentage of disability, hence for the 45% disability, the additional amount would be Rs. 74,250/- (1650 x 45) and the same

is rounded off to Rs.75,000/-. Accordingly, the modified amount for the disability is fixed at Rs. 1,15,000/- (Rs.40,000 + Rs.75,000). In respect of the other amounts awarded by the tribunal under various heads remains unaltered and does not require any interference.

7. In the result, this Civil Miscellaneous Appeal is allowed. No costs.

(i) The Award passed by the tribunal in M.C.O.P.No.550 of 1993 dated 18.09.97 is hereby modified by enhancing the compensation from Rs.1,02,360/- to 1,77,360/-.

(ii) The enhanced compensation of Rs.75,000/- (Rs.1,77,360 - 1,02,360/-) shall carry interest at the rate of 7.5% per annum from the date of claim till the date of realisation. The Appellant is directed to pay additional court fee for the enhanced amount.

(iii) The 3rd respondent shall deposit the compensation as determined by this Court, less the amount already deposited, if any, along with interest @ 7.5% from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimant/appellant through RTGS, within a period of two weeks thereafter. Necessary court fee, if any, shall be paid on the enhanced compensation amount.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Motor Vehicles Accident Claims Tribunal
-Cum Sub-Court, Coimbatore

2. The Section Officer,
V.R. Section, High Court,
Madras - 104. (2 Copies)

+1cc to Mr.S.Gunalan, Advocate, S.R.No. 64094

+1cc to Mr.R.Sreevidhya, Advocate, S.R.No. 65184

CMA No.2157 of 2007

JP(CO)

GN(01/02/2019)