

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.1771 and 1774 of 2004

R.Ravikumaran  
Mohana

.. Appellant in CMA.No.1771 of 2004  
.. Appellant in CMA.No.1774 of 2004

Vs.

1.S.Syed Ibrahim

2. The National Insurance Co.Ltd.,  
No.751, Anna Salai,  
Chennai 600 006. .. Respondents in both CMAs

Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.06.2003 made in O.P.Nos.1133 of 2002 and 4332 of 2001, on the file of the Motor Accidents Claims Tribunal, VI Judge, Small Causes Court, Chennai.

For Appellants : Mr.A.Shanmugaraj  
For R2 : Mr.N.Vijayaraghavan  
Mr.S.Arunkumar

COMMON JUDGMENT

The appellants are aggrieved by the award passed by the claims Tribunal in MCOP.Nos.4332 of 2001 and 1133 of 2002, filed by them seeking compensation for the injuries sustained in a motor vehicle accident.

2. The facts of the cases in nutshell are as follows:-

On the fateful day, i.e., on 28.02.2001 at about 5.50am, the appellants/claimants were travelling in the Mahindra Van bearing Registration No.TN09 W 9688 in the G.S.T Road. When the vehicle was nearing Acharapakkam Koot Road, a lorry bearing registration No.TN45 H 3069 belonging to the first respondent and insured with the second respondent, came in a rash and negligent manner on the same direction and hit the van from behind. As a result of the same, the appellants/ claimants sustained grievous

injuries. Stating that the accident had occurred due to the rash and negligent driving of the driver of the lorry, the claimants filed separate claim petitions claiming compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.73,000/- (claimant in MCOP.No.4332/2001) and Rs.88,000/- (claimant in MCOP.No.1133/2002) with interest at the rate of 9% per annum from the date of petitions. Feeling aggrieved and being dissatisfied with the quantum so determined, the appellants have come up with the present appeals seeking enhancement of the same.

3.The learned counsel for the appellants/claimants submitted that considering the nature of the disability sustained by the appellants, the compensation awarded by the Tribunal is inadequate and hence, the same has to be enhanced substantially.

4.The learned counsel for the second respondent Insurance Company submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The present appeals are filed by the claimants seeking enhancement of the compensation awarded by the Tribunal. Hence, there is no requirement for this Court to go into the aspects of negligence and liability of the second respondent insurance company to pay compensation to the claimants.  
CMA.No.1771 of 2004 (M.C.O.P.No.1133 of 2002)

7.The claimant himself examined as P.W.8. According to his deposition, in the accident, he sustained fracture of left leg ankle and right leg knee, cut injuries in face and multiple injuries all over the body; he initially took treatment at Chengalpet Government Hospital and thereafter, at Halsted Surgical Clinic, Chennai as inpatient from 28.02.2001 to 09.03.2001; and he was 36 year old and was earning Rs.15,000/- per month by working as Site Engineer. The doctor was examined as P.W.9, who issued Ex.P53 disability certificate to the tune of 60%. Ex.P54 is the X-Ray. Considering those oral and documentary evidence, the Tribunal has awarded Rs.2,000/- towards loss of income during treatment period, Rs.500/- towards transportation, Rs.500/- towards extra nourishment, Rs.20,000/- towards medical expenses, Rs.5,000/- towards pain and suffering, Rs.50,000/- towards permanent disability, Rs.10,000/- towards loss of earning capacity, in totalling Rs.88,000/-, which, in the opinion of this Court, are fair, just and reasonable and

hence, the same need not be interfered. However, the Tribunal has not granted any amount under the heads "attendant charges and loss of amenities". Hence, this Court is inclined to grant a sum of Rs.10,000/- each under those heads. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs.88,000/- to Rs.1,08,000/-, the break-up details of which read as under:-

| Head                        | Compensation awarded by the Tribunal (Rs.) | Compensation enhanced by this Court (Rs.) |
|-----------------------------|--------------------------------------------|-------------------------------------------|
| Loss of income              | 2,000/-                                    | 2,000/-                                   |
| Transportation              | 500/-                                      | 500/-                                     |
| Extra nourishment           | 500/-                                      | 500/-                                     |
| Medical expenses            | 20,000/-                                   | 20,000/-                                  |
| Pain and suffering          | 5,000/-                                    | 5,000/-                                   |
| Permanent disability at 60% | 50,000/-                                   | 50,000/-                                  |
| Loss of earning Capacity    | 10,000/-                                   | 10,000/-                                  |
| Attendant charges           | -----                                      | 10,000/-                                  |
| Loss of Amenities           | -----                                      | 10,000/-                                  |
| Total                       | Rs.88,000                                  | Rs.1,08,000/-                             |

CMA.No.1774 of 2004 (M.C.O.P.No.4332 of 2001)

8.The claimant himself examined as P.W.5, who deposed that in the accident, she sustained fracture in jaws and right color bones and loss of three teeth, besides receiving multiple injuries all over the body; she initially took treatment at Chengalpet Government Hospital and thereafter, at C.M.K.Reddy Hospital as inpatient for ten days; and she was 57 years and was earning Rs.3,000/- per month by working as Tailor. The doctor was examined as P.W.9, who issued Ex.P43 disability certificate, as per which, the claimant sustained 65% permanent disability. Considering the materials and evidence adduced by the first respondent/claimant, the Tribunal has awarded Rs.2,000/- towards loss of income during treatment period, Rs.500/- towards transportation, Rs.500/- towards extra nourishment, Rs.25,000/- towards medical expenses, Rs.5,000/- towards pain and suffering, Rs.40,000/- towards permanent disability, in totalling Rs.73,000/-, which this Court is not inclined to interfere. However, considering the fact that no amount was awarded towards "attendant charges" and "loss of amenities", this Court is inclined to grant Rs.10,000/- each under those heads. Accordingly, the award of the Tribunal is enhanced from Rs.73,000/- to Rs.93,000/-, the break-up details of which, read

as under:-

| Head                        | Compensation awarded by the Tribunal (Rs.) | Compensation enhanced by this Court (Rs.) |
|-----------------------------|--------------------------------------------|-------------------------------------------|
| Loss of income              | 2,000/-                                    | 2,000/-                                   |
| Transportation              | 500/-                                      | 500/-                                     |
| Extra nourishment           | 500/-                                      | 500/-                                     |
| Medical expenses            | 25,000/-                                   | 25,000/-                                  |
| Pain and suffering          | 5,000/-                                    | 5,000/-                                   |
| Permanent disability at 65% | 40,000/-                                   | 40,000/-                                  |
| Attendant charges           | -----                                      | 10,000/-                                  |
| Loss of Amenities           | -----                                      | 10,000/-                                  |
| Total                       | Rs.73,000                                  | Rs.93,000/-                               |

9. In the result, both the appeals are partly allowed. No costs. The Second respondent/Insurance Company is directed to deposit the entire compensation amount as awarded by this Court, with interest at 9% pa from the date of petition and costs, after deducting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS)

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Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,  
VI Small Causes Court, Chennai.

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

+2ccs to Mr.N.Vijayaraghavan , Advocate SR.No. 65174 ,65173

C.M.A.Nos.1771 and 1774 of 2004

A.SK(02/09/2020)