

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1485 of 2006

R.Kalidoss

..Appellant / Petitioner

Vs

1. T.Jawahar

2. K.Elangovan
(R1 and R2 were set exparte in the
Trial Court. Notice dispensed with)

3. United India Insurance Co.Ltd.,
Motor Third Party Claims Office,
No.15, Anna Salai, Chennai-600 002. ...Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 21.06.2005 made in MACTOP No.4456 of 2002 on the file of the III Judge, Motor Accidents Claims Tribunal (Small Causes Court), Chennai.

For Appellant : Mr.R.Aravindhan for
M/s.C & K Law Firm

For Respondents : Mr.D.Baskaran for R3

JUDGMENT

This appeal is preferred by the claimant against the award of a sum of Rs.16,000/- towards compensation due to the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 31.08.2002, at about 20.30 hours, the appellant was proceeding in his bicycle along the Velachery Main Road, Chennai from North to South direction. When he was nearing Gurunanak College, a Tempo Van bearing Reg.No.TAO-3790 came from behind in a rash and negligent manner and dashed against the appellant. Due to the said impact, the appellant sustained grievous injuries. The appellant filed a claim petition before the Tribunal. On consideration of the materials

and evidence available on record, the Tribunal awarded a total compensation of Rs.16,000/- with interest at the rate of 9% per annum from the date of petition.

3.Challenging the same, the appellant -claimant has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant /claimant has submitted that the Tribunal has erred in not awarding any sum towards loss of income during the treatment period, when there is a categorical evidence to that effect. It is also submitted that the compensation awarded towards transport to hospital and extra nourishment are very meagre; that no sum has been awarded towards damages to the cycle and medical expenses; that the Tribunal did not consider the gravity of injuries while awarding compensation. Stating so, the learned counsel prayed for enhancement of compensation to Rs.2,00,000/-.

5.The learned counsel for the third respondent / Insurance Company submitted that 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.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.The Tribunal has awarded a sum of Rs.500/- each towards transport expenses and extra nourishment, Rs.5,000/- towards pain and suffering and Rs.10,000/- towards permanent disability, totalling to Rs.16,000/- in all. After considering the materials and evidence available on record, this Court is of the view that the Tribunal has not taken into consideration the Discharge Summary which has been marked as Ex.P1, which speaks for itself. As per the evidence of the Doctor-P.W.2, the claimant has sustained 25% disability. It would be appropriate to award a sum of Rs.25,000/- towards permanent disability, at the rate of Rs.1,000/- per percentage of disability. Considering the evidences adduced, this Court is of the view that it would be appropriate to award a sum of Rs.25,000/- towards pain and suffering, Rs.24,000/- towards loss of income during the treatment period, Rs.10,000/- towards extra nourishment, Rs.6,000/- towards transport expenses and Rs.10,000/- towards medical expenses. Accordingly, the award of the Tribunal is modified as follows:

HEADS	AMOUNT (Rs.)
Permanent Disability	25,000/-
Pain and suffering	25,000/-
Loss of income during the treatment period	24,000/-
Extra nourishment	10,000/-
Transport expenses	6,000/-
Medical expenses	10,000/-
TOTAL...	1,00,000/-

8. Accordingly, the award of the Tribunal is enhanced from Rs.16,000/- to Rs.1,00,000/- (Rupees One Lakh Only) with interest at 9% p.a., from the date of petition. The third respondent Insurance Company is directed to deposit the modified compensation of Rs.1,00,000/- with interest at 9% p.a. from the date of petition, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

9. The Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

KM

To

1. The III Judge, Motor Accidents Claims Tribunal
(Small Causes Court), Chennai.
2. The Section Officer,
VR Section, Madras High Court.

+1 cc to M/s.C.Munusamy, Advocate, S.R.No.46871

+1 cc to M/s.D.Bhaskaran, Advocate, S.R.No.47173

C.M.A.No.1485 of 2006

RK(CO)
SSM(22/10/2019).



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