

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1632 of 2005

The Superintendent of Police,
Security Branch, C.I.D.,
Chennai.

.. Appellant/ Respondent

Vs.

K.Ganesan

.. Respondent/ Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 11.08.2003 made in M.C.O.P.No.2285 of 1999 on the file of the Motor Accident Claims Tribunal, 6th Judge, Small Causes Court, Chennai.

For Appellant : Mr.A.Dev Narendran
Government Advocate (CS)

J U D G M E N T

Challenging the judgment and decree dated 11.08.2003 passed by the Motor Accident Claims Tribunal, 6th Small Causes Court, Chennai in MCOP.No.2285 of 1999, the appellant has filed this appeal.

2.By the impugned judgment, the Tribunal has awarded a compensation of Rs.1,22,000/- with interest at 9% p.a. from the date of petition as against the claim of Rs.2,00,000/- made by the respondent/claimant for the injuries sustained by him in a motor vehicle accident that had occurred on 14.04.1998. The break up details of the compensation awarded, reads as follows:

S. No.	Description	Amount awarded by Tribunal (Rs.)
1.	Loss of Income	Rs.15,000/-
2.	Transportation	Rs.2,000/-
3.	Extra Nourishment	Rs.2,000/-
4.	Medical Expenses	Rs.3,000/-

5.	Pain and Sufferings	Rs.15,000/-
6.	Permanent disability	Rs.55,000/-
7.	Future loss of income	Rs.30,000/-
	Total	Rs.1,22,000/-

3.The learned Government Advocate (CS) appearing for the appellant submitted that the rider of the two wheeler, in which, the respondent/claimant was a pillion rider, was also contributed to the accident and hence, the Tribunal ought to have fixed 50% liability on him. He further submitted that the award passed under various heads are without any basis and hence, the same has to be set aside.

4.Heard the learned Government Advocate (CS) appearing for the appellant and perused the materials available on record.

5.It is seen that the respondent/claimant has not been served with notice till date. However, considering the fact that the appeal is of the year 2005, this Court is inclined to dispose of this appeal on merits.

6.Before the Tribunal, the claimant himself examined as P.W.1 and narrated about the manner of accident. According to him, on 14.04.1998 at about 12.45 hours, he was travelling as a pillion rider in the two wheeler bearing Registration No:TAH 2555 from East to West direction on the Police Commissioner's Office Road and at that time, the Tempo bearing Registration No:TN 07 G 0988 which was driven by its driver in a rash and negligent manner, dashed against the two wheeler, as a result of which, he sustained grievous injuries. Though the appellant has taken a defence that the rider of the two wheeler was also responsible for the accident and 50% contributory negligence has to be fixed on him, the Tribunal, based on Ex.P10- FIR which was registered against the driver of the tempo van and Ex.P11-rough sketch, has recorded its finding that the accident had occurred only due to the rash and negligent driving of the driver of the van, which this Court is not inclined to interfere.

7.As regards the quantum of compensation, P.W.1/respondent/claimant in his evidence, has stated that he was aged 24 years at the time of accident and was earning a sum of Rs.400 per month. He further deposed about the injuries sustained and also treatment taken by him from 14.04.1998 to 14.12.1998. P.W.3/doctor has been examined to speak about the disability suffered by the respondent/claimant. In his evidence, he has stated that the claimant suffered crush injuries on his left leg, fracture on tibia, dislocation of left shoulder, due to which, the movement was restricted by 15 degree. Ex.P15 is

the disability certificate, as per which, the respondent/claimant sustained 50% permanent disability. Ex.P.16 is X Ray. The Tribunal, based on the above materials and evidence, has quantified the total compensation at Rs.1,22,000/-.

8.This Court is of the view that considering the percentage of disability and nature of injuries sustained and the period of treatment taken by the respondent, the award so arrived at by the Tribunal is just and reasonable and the same does not call for any interference.

9.Thus, affirming the award passed by the Tribunal, this appeal stands dismissed. No costs. The appellant is directed to deposit the entire compensation amount, as awarded by the Claims Tribunal, along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Accounts of the injured / claimant, through RTGS, within one week thereafter.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gbi
To

1.The 6th Judge,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

2.The Section Officer,
V.R.Section,
High Court, Madras.

+1 cc to Spl Government Pleader Sr.No. 53634

C.M.A.No.1632 of 2005

A.SK(13/02/2020)