

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2298 of 2007

Nagaraj

..Appellant / Petitioner

Vs

1. P.A.Ramasamy

2. M/s.The Oriental Insurance Company
Gobichettipalayam

3. K.R.Maheswaran ..Respondents/Respondents
(R1 & R3 were set exparte before the Tribunal)

Prayer: Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 27.04.2004 made in MCOP No.187 of 1998 on the file of the Motor Accidents Claims Tribunal/Additional District Judge, Dharmapuri.

For Appellant : Mr.M.Selvam

For Respondents : No appearance

J U D G M E N T

Being dissatisfied with the quantum of compensation awarded by the Tribunal, the appellant / claimant has preferred this appeal.

2.The case in brief is as follows:-

On 04.09.1997, at about 3.15am, when the appellant/ claimant herein was travelling in a Jeep bearing Reg.No.PY 01 C 4975, belonging to the 3rd respondent herein, from Tiruchengode to Bangalore, a lorry bearing Reg.No.TN28 Y 4689 came in a rash and negligent manner and dashed against the said Jeep, due to which, the claimant sustained severe injuries. Hence, the appellant/ claimant herein filed a claim petition claiming a compensation of Rs.10,00,000/-. Upon consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.1,05,000/- with interest at 9%pa from the date of petition. Aggrieved over the same, the appellant / Claimant has come up with this appeal.

3.The learned counsel for the appellant submitted that without considering the evidence of P.W.2/doctor coupled with Ex.P2-wound certificate and Ex.P9 disability certificate to establish 40% disability caused to the claimant due to the accident, the Tribunal has awarded a lesser sum of Rs.1,05,000/- as total compensation and hence, the same has to be enhanced substantially.

4.Heard the learned counsel for the appellant/claimant and perused the materials available on record. Despite the service of notice and the name of the respondents 2 and 3 having been printed in the cause list, there is no representation on their behalf.

5.This is the claimant's appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, there is no requirement for this Court to go into the findings of the Tribunal on negligence and liability of the second respondent insurance company to pay compensation.

6.The appellant/claimant examined himself as P.W.1, who deposed in his evidence that as a result of the accident, he sustained grievous injuries; he took treatment at Dharmapuri Government Hospital; at that time, he was earning Rs.3,000/- per month by working as a driller; due to the injuries sustained, he could not do his avocation, which was working previously; claiming so, he sought compensation of Rs.2,00,000/-. Ex.P2 is wound certificate, as per which, he sustained injuries in left leg and thigh bone and grievous injuries in head. To substantiate the injuries received from the accident, the claimant examined the doctor as P.W.2, who issued Ex.P9 disability certificate to the tune of 40%. He further deposed that the left leg of the claimant was shortened by 1/4inch and the muscles were tightened, due to which, he finds it difficult to squat, sit and walk. After taking into consideration all those materials and evidence, the Tribunal has reduced the percentage of disability to 25% and awarded Rs.25,000/- towards 25% permanent disability, Rs.25,000/- towards pain and suffering, Rs.50,000/- towards loss of future earning, Rs.2,000/- towards transport expenses and Rs.3,000/- towards Extra nourishment. In the opinion of this Court, the total compensation of Rs.1,05,000/- awarded by the Tribunal under the above heads appears to be just and very reasonable and hence, the same does not call for any interference.

7.In such view of the matter, the Civil Miscellaneous Appeal is dismissed by confirming the award passed by the Tribunal. No costs. The 2nd respondent Insurance Company is

directed to deposit the award amount as ordered by the Tribunal, with interest 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 Tribunal is directed to transfer the amount lying in the deposit to the Savings Bank Account of the claimant / appellant herein, through RTGS, within one week thereafter.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Additional District Judge,
Motor Accident Claims Tribunal,
Dharmapuri.

Copy to : The Section Officer, V.R.Section
High Court, Chennai 104

+1cc to Mr.M.Selvam, Advocate Sr.No.62847

AKM/25.02.2020 /3P-4C/

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