

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.685 of 2007

Minor Narendiran
rep.by his next friend-Father
Rajappa

... Appellant

Vs

1.M.Palanisamyh

2.United India Insurance Co.Ltd.,
Divisional Office No.2,
Dr.Sankaran Road,
Namakkal-1.

... Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 02.11.2006 made in MCOP No.1275 of 2003 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court No.1), Dharmapuri District at Krishnagiri.

For Appellant : Mr.P.Mani

For Respondents : M/s.I.Malar for R2

JUDGMENT

The case in brief, is as follows:

On 14.06.2003 at about 8.30 a.m., the appellant was standing in the northern side of the Hosur - Krishnagiri NH Road near Koneripalli Bus Stop. At that time, the driver of the lorry bearing Reg.No.TN-28-W-5598 belonging to the first respondent and insured with the second respondent Insurance Company drove the lorry in a rash and negligent manner at high speed and dashed against the appellant. Due to the said impact, the appellant sustained crush injuries in both the legs. The appellant, represented by his father, filed a claim petition before the Tribunal claiming a sum of Rs.10,00,000/- as compensation. Considering the materials and evidence available on record, the Tribunal awarded a sum of Rs.2,27,950/- with interest at the rate of 7.5% per annum from the date of petition, as total compensation.

2.Challenging the same, the appellant -claimant has filed the present Civil Miscellaneous Appeal for enhancement of compensation.

3.The learned counsel for the appellant /claimant has submitted that the Tribunal has erred in not accepting the percentage of disability fixed by the Doctor. It is also submitted that the compensation awarded by the Tribunal towards other heads are very meagre and hence the same requires enhancement.

4.The learned counsel for the second respondent Insurance Company has submitted that the Tribunal has correctly considered the materials and evidence available on record and correctly awarded the compensation, which is just, fair and reasonable and hence the judgment of the Tribunal does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant / claimant and the learned counsel for the second respondent Insurance Company and perused the materials available on record carefully and meticulously.

6.The Tribunal has awarded a sum of Rs.78,750/- towards loss of income. The said sum has been arrived at by fixing the annual income of the injured at Rs.15,000/-, adopting the multiplier of 15 and taking the disability at 35%. Even though the Doctor fixed the disability at 50%, the Tribunal has reduced the same to 35%. It is seen that the injured sustained deep lacerated wound with loss of skin from groin to middle of right lower limb; that the muscle tendons exposed and partly crushed; that the injured sustained deep lacerated wound with loss of skin upper left thigh to middle leg muscle tendons and bone in thigh and there was fracture of left femur shaft. He also sustained abrasions on the right limb on outer aspect 10cm x 3 cm front of left foot arm scalp. Considering the materials and evidence available on record, it would be appropriate to sustain the disability fixed by the Doctor at 50% and if 50% disability is taken, the loss of income works out to Rs.1,12,500/-. Accordingly, the amount awarded by the Tribunal towards loss of income stands modified to Rs.1,12,500/-. With regard to pain and suffering, the Tribunal has awarded a sum of Rs.7,000/- and it would be appropriate to enhance the same to Rs.20,000/-. Further, awarding a sum of Rs.8,000/- towards attender charges and a sum of Rs.20,000/- towards loss of amenities, would meet the ends of justice. The amounts awarded by the Tribunal at Rs.7,000/- towards extra nourishment, Rs.200/- towards damage to clothes, Rs.10,000/- towards transport expenses and Rs.1,25,000/- towards medical expenses, does not require any interference by this Court. The details of the modified compensation are as follows:

HEAD	AMOUNT (Rs.)
Loss of income	1,12,500/-
Extra nourishment	7,000/-
Pain and suffering	20,000/-
Damage to clothes	200/-
Transport expenses	10,000/-
Medical expenses	1,25,000/-
Attender charges	8,000/-
Loss of amenities	20,000/-

TOTAL	3,02,700/- =====

Thus, the appellant / claimant is entitled to the modified compensation of Rs.3,02,700/-. It is made clear that only for the compensation of Rs.2,27,950/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.74,750/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

7.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

8.The second respondent Insurance Company is directed to deposit the modified compensation as ordered above, 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. The appellant would have attained majority by now. Hence, on such deposit being made, the appellant / claimant shall withdraw the same, on making proper application before the Tribunal.

-s/d-

Assistant Registrar(Arb)

True Copy

Sub-Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal
(Chief Judicial Magistrate Court No.1),
Dharmapuri District at Krishnagiri.

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

+lcc to Mr.P.Mani , Advocate SR.No. 70310

+lcc to Mr.T.Ravichandran , Advocate SR.No. 70789

C.M.A.No.685 of 2007

A.SK(16/07/2020)