

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.565 of 2006

D.Ramamoorthy

...Appellant/Petitioner

..Vs..

1. R.Narayanan

2. National Insurance Company Limited,  
No.768, Anna Salai,  
Chennai 2.

..Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 20.08.2003, passed in M.C.O.P.No.3531 of 1999, on the file of the file of the Additional District Judge, V Fast Track Court, Motor Accident Claims Tribunal, Chennai.

For Appellant : Mrs.Agalya

For Respondents: Mr.S.Arunkumar for R2  
R1 - Ex-parte

JUDGMENT

The appellant is the claimant in M.C.O.P.No.3531 of 1999 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court V, Chennai. He filed the above said claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.1,00,000/- for the injuries sustained by him in a road accident that took place on 26.04.1998, when he was travelling as a pillion rider in a motorcycle bearing Registration No.TN 09 Y 7537 along Muttukadu Road.

2.According to the appellant/claimant, the rider of the motorcycle bearing Registration No.TN 09 Y 7537 belonging to the first respondent rode the two wheeler rashly and negligently and hit a Metropolitan Transport Corporation bus bearing Registration No.TN 01 N 3038, as a result of which, the claimant sustained injuries all over his body. He further contended that

since the motorcycle bearing Registration No. TN 09 Y 7537 belonging to the first respondent was insured with the second respondent, the National Insurance Company Limited, both of them are jointly and severally liable to pay compensation to him.

3.The learned Additional District Judge, Fast Tract Court-V, Chennai, after analysing the evidence on record, awarded compensation of Rs.26,000/- together with interest at the rate of 9% per annum to the appellant/claimant from the date of claim petition and directed both the respondents to jointly and severally pay the compensation to the appellant/claimant. Not satisfied with the quantum of compensation awarded by the tribunal, the appellant/claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988 seeking for enhancement of compensation.

4.Mrs.Agalya, learned counsel appearing for the appellant/claimant would contend that when, Dr. Saichandran(PW2) has assessed the partial permanent disability as 45%, the tribunal has awarded a very meagre amount of Rs.15,000/- towards partial permanent disability. She would further contend that no amounts were awarded under the heads 'extra nourishment', 'transportation' and 'loss of income'.

5.Per contra, Mr.S.Arunkumar, learned counsel appearing for the second respondent would contend that the tribunal has taken into consideration, various aspects and awarded just compensation of Rs.26,000/- and that the same need not be disturbed at this juncture and that the accident took place in the year 1999.

6.The Compensation awarded by the tribunal under various heads is extracted hereunder:-

| S.No | Head                         | Amount granted |
|------|------------------------------|----------------|
| 1.   | Partial permanent disability | Rs.15,000/-    |
| 2.   | Pain and sufferings          | Rs.8,000/-     |
| 3.   | Loss of income               | Rs.3,000/-     |
|      | Total                        | Rs.26,000/-    |

7. A perusal of the discharge summary (Ex.P1) shows that the claimant has sustained fracture of both bones on her right leg and he took treatment as an inpatient in Government Royapettah hospital for one month from 26.06.1998. Dr.Saichandran (PW2) has issued a Disability Certificate (Ex.P8) assessing the partial permanent disability suffered by the appellant/claimant as 45%. Since there is no functional disability, adopting

multiplier method is not warranted. Hence, awarding a sum of Rs.1,000/- per percentage would meet the ends of justice and thus Rs.45,000/- (1,000 x 45 = 45,000) is awarded towards partial permanent disability. The contention of the claimant is that he was an electrician by profession earning a sum of Rs.2,500/- per month as per the pay certificate (Ex.P2). Therefore, the monthly income of the claimant is fixed at Rs.2,500/- per month. On account of accident, the claimant would not have been in a position to attend to his regular work atleast for four months. Hence, loss of income is fixed at Rs.10,000 (2,500 x 4 = 10,000). Apart from that, the claimant is also entitled to a sum of Rs.5,000/- , 2,000/-, 2,000/- 1,000 towards "pain and sufferings", "Transportation charges", "Extra nourishment" and "Attender's charges" respectively. The revised compensation awarded by this court under various heads is extracted hereunder:-

| S.No | Head                         | Amount granted |
|------|------------------------------|----------------|
| 1.   | Partial permanent disability | Rs.45,000/-    |
| 2.   | Pain and sufferings          | Rs.5,000/-     |
| 3.   | Transportation               | Rs.2,000/-     |
| 4.   | Extra nourishment            | Rs.2,000/-     |
| 5.   | Attender's charges           | Rs.1,000/-     |
| 6.   | Loss to income               | Rs.10,000/-    |
|      | Total                        | Rs.65,000/-    |

Thus, the appellant/claimant is entitled to a sum of Rs.65,000/-, which shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

8. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The quantum of compensation awarded by the tribunal is enhanced from Rs.26,000/- to Rs.65,000/-.

(iii) The appellant/claimant is directed to pay court fee for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the payment of court fee.

(iv) The second respondent is directed to pay the enhanced compensation amount (less the amount already deposited by them) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.3531 of 1999, dated 20.08.2003, on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.V, Chennai within a period of four weeks from the date of receipt of a copy of this order.

(v) Though the tribunal has awarded interest at the rate of 9% per annum, it is made clear that the appellant/claimant is entitled to interest for the enhanced compensation amount only at the rate of 7.5% per annum.

(vi) On such deposit being made by the second respondent, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

vkr

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To  
The Motor Accidents Claims Tribunal,  
Additional District Court,  
V Fast Track Court, Chennai.

Copy to:-

The Section Officer,  
V.R.Section,  
High Court, Madras - 104.

+1cc to Mr.A.Shanmugaraj, Advocate, SR.No.6594

+1cc to Mr.S.Arunkumar, Advocate, SR.No.7769

सत्यमेव जयते

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Kak(23/05/2019)

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