

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2645 of 2008

Dinesh Kumar

.. Appellant/Claimant

Vs.

1. Mr.S.Mohamed Ushuf
(R1 was set-exparte before the Tribunal)
2. National Insurance Co., Ltd.,
80 feet Road, Anna Nagar,
Madurai - 20. .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.04.2008 made in MCOP.No.1301 of 2006 on the file of the Motor Accidents Claims Tribunal, (Additional District Judge), Krishnagiri.

For Appellant : Mr.D.Shivakumaran
For R1 : No appearance
For R2 : Mr.S.Arun Kumar

J U D G M E N T

This appeal arises out of the order and decreetal order dated 24.04.2008 passed by the Motor Accidents Claims Tribunal, I Additional District Judge, Krishnagiri, (for brevity, "the Tribunal"), in MCOP.No.1301 of 2006.

2.According to the appellant/claimant, he met with an accident on 24.6.2005, while proceeding in his two wheeler from Madurai to Kadayannallur Krishnapuram, on account of the rash and negligent act on the part of the driver of the LMV Maxi Cab bearing registration No.TN 59 8382 belonging to the first respondent and insured with the second respondent. Due to the said impact, the appellant sustained grievous injuries.

Claiming compensation of Rs.15,00,000/-, he filed a claim petition before the Tribunal. On consideration of the evidence and materials available on record, the Tribunal awarded a total compensation of Rs.17,000/- with interest at 7.5% per annum from the date of petition. Feeling aggrieved and being dissatisfied with the quantum so awarded by the Tribunal, the appellant/claimant has preferred this appeal seeking enhancement of the same.

3. The learned counsel for the appellant/claimant submitted that the Tribunal, having found that the accident had occurred only due to the rash and negligent driving of the driver of the van, has erred in awarding a lesser compensation of Rs.17,000/- as against the claim of Rs.15,00,000/- and hence, the same has to be enhanced substantially.

4. The learned counsel for the second 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.

5. Heard both sides and perused the records.

6. This is a 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 fastened on the second respondent insurance company.

7. As far as the quantum of compensation is concerned, P.W.1/ appellant/claimant has deposed in his evidence that he was aged 22 years and was earning a sum of Rs.18,250/- per month as a medical representative; and in the accident, he sustained fractures in left tibia and left acetabulum, besides receiving grievous injuries on head and backside; due to the same, he could not pursue his avocation as done before. Ex.P2 wound certificate corroborated the testimony of P.W.1 with regard to the nature of the injuries sustained by him. To substantiate the quantum of permanent disablement sustained by the claimant, P.W.2 and P.W.3-doctors were examined and Ex.P8 disability certificate was marked. However, the Tribunal has disbelieved those evidence and material stating that the accident had occurred on 24.6.2005, but the claimant took treatment in St John's Medical College and Hospital, Bangalore from 28.1.2006 to 4.2.2006 as inpatient, i.e., much after the accident and there was discrepancy as to the nature of injuries stated in the claim petition with that of the documents produced by the claimant. After raising doubt about the genuineness of

the claim made by the claimant, the Tribunal has rightly awarded Rs.15,000/- towards pain and suffering and Rs.1000/- each towards transport charges and extra nourishment, as there was no dispute with regard to the factum of accident and the involvement of the vehicle insured with the second respondent insurance company in the same, which this Court is not inclined to interfere.

8. In fine, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The second respondent/Insurance Company is directed to deposit the entire compensation amount 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 Judgement. On such deposit, the Tribunal shall transfer the same to the savings bank account of the appellant/claimant through RTGS within a period of one week thereafter.

-s/d-

Assistant Registrar

True copy

Sub-Assistant Registrar

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To

1. The Additional District Judge,
Motor Accidents Claims Tribunal,
Krishnagiri.

Copy to

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

+1 cc to Mr.S.Arunkumar Advocate sr73335

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