

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.2054 of 2009

Ravi

...Appellant/Claimant

Vs.

1.Ramalingam

2.United India Insurance Company Limited,
Branch Office at
No.123, No.2 Road,
Mayiladuthurai,
Nagapattinam District.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 31.12.2008 passed in M.C.O.P.No.406 of 2006 on the file of the Motor Accident Claims Tribunal / Additional Sub Court, Mayiladuthurai.

For Appellant : S.Sounthar
For R1 : Dispensed with vide
Court order dated 14.03.2019
For R2 : Mr.S.Arunkumar

J U D G M E N T

The appellant is the claimant in M.C.O.P.No.406 of 2006 on the file of the Motor Accident Claims Tribunal / Additional Sub Court, Mayiladuthurai. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident that took place on 18.07.2006.

2.The case of the claimant is that on 18.07.2006, the claimant was returning home in his bicycle from Co-operative Sugarcane Factory, Thalaigayiru and at about 8.00 P.M., a speeding tractor bearing Registration No.TN 51 T 0083, belonging to the first respondent and insured with the second respondent / United India Insurance Company Limited, came on the opposite direction and hit the bicycle, as a result whereof, the claimant fell down and sustained injuries all over his body. According to the claimant, the rash and negligent driving of the driver of the tractor bearing Registration No.TN 51 T 0083 was the cause of the accident and that since the said tractor was insured with the second respondent / United India Insurance Company Limited, the owner

and the insurer are jointly and severally liable to pay compensation to him.

3.The learned Additional Subordinate Judge / Motor Accident Claims Tribunal, Mayiladuthurai, after analysing the evidence on record, awarded a compensation of Rs.60,400/- together with interest at the rate of 7.5% per annum to the claimant. Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of compensation.

4.Mr.S.Sounthar, learned counsel appearing for the appellant / claimant contended that the claimant sustained fracture on his left hip and left leg and was admitted as an inpatient for three months at Raja Muthaiah Medical College and Hospital, Chidambaram. He further contended that an operation was performed for fixation of a plate in the hip of the appellant and that without considering the injuries sustained by the claimant, the Tribunal awarded a very meagre compensation of Rs.60,400/- which according to him needs to be enhanced.

5.Per contra, Mr.S.Arunkumar, learned counsel appearing for the second respondent / United India Insurance Company Limited contended that the Tribunal after considering all the aspects of the case has awarded a just compensation of Rs.60,400/- and therefore the same need not be disturbed at this stage.

6.No appearance on behalf of the first respondent.

7.A perusal of the discharge summary (Ex.P4) shows that the claimant has sustained injury on his left hip. It is contended that the claimant is working as an Attender in Co-operative Sugarcane Factory earning a sum of Rs.4,670/- per month. On account of accident, he would not have been in a position to attend to his routine work atleast for three months and a sum of Rs.14,010/- (Rs.4,670/- X 3 months) is awarded as loss of income. Dr.Rajasekaran (P.W.2) assessed partial permanent disability as 22%. The claimant had deposed that he was given an alternate job in the same Factory and therefore there may not be any functional disability and thus, a sum of Rs.44,000/- is awarded towards partial permanent disability. Considering the injuries sustained by the claimant, Rs.20,000/- is awarded towards pain and sufferings. The award passed by this Court under various heads is extracted hereunder:

S.No	Head	Amount granted by this Court
1.	Partial permanent disability	Rs.44,000/-
2.	Pain and sufferings	Rs.20,000/-
3.	Extra nourishment	Rs.5,000/-
4.	Damage to clothes	Rs.500/-
5.	Attender's charges	Rs.2,000/-
6.	Transportation	Rs.5,000/-
7.	Medical expenses	Rs.5,378/-
8.	Loss of income	Rs.14,010/-
Total		Rs.95,888/-

8. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.60,400/- to Rs.95,888/-.

(iii) The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

(iv) The second respondent / United India Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.95,888/- (less the amount already deposited) 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.406 of 2006 on the file of the Motor Accident Claims Tribunal / Additional Sub Court, Mayiladuthurai within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

krk

To

The Motor Accidents Claims Tribunal,
Additional Subordinate Judge, Mayiladuthurai.

+lcc to Mr.S.Arunkumar , Advocate SR.No. 87849

+lcc to Mr.S.Sounthar , Advocate SR.No. 87491

C.M.A.No.2054 of 2009

A. SK (24/07/2020)