

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2558 of 2009

Thangaraj

.. Appellant

Vs.

1. A.Adhinarayanan
2. S.Rajkumar
3. The National Insurance Company Limited,
Divisional Office,
Represented by Regional Manager,
73, TVS Street, Erode.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.06.2009 made in M.C.O.P.No.175 of 2005, on the file of the Motor Accidents Claims Tribunal, (I Additional Subordinate Judge) Erode.

For Appellant : Mr.R.Nalliyappan
For R3 : Mr.K.Padmanathan

J U D G M E N T

According to the appellant/claimant, on 21.03.2004 about 00.10hours, he was riding his Yamaha motorcycle bearing registration No.TN-33-Q-6841 on the extreme left side of the road. When he was nearing Veerappan Chathiram Muniappan Kovil, a M-80 motorcycle bearing registration No.TN33 AC 0738 belonging to the second respondent and insured with the third respondent, came from the opposite direction in a rash and negligent manner and dashed against the motorcycle bearing Regn.No.TN-33-Q-6841. As a result of the same, the appellant sustained grievous injuries, for which, he filed a claim petition, claiming compensation of Rs.4,00,000/-. The Tribunal, after considering the oral and documentary evidence, awarded a compensation of Rs.1,18,000/- with interest at 7.5% per annum from the date of petition. Feeling aggrieved and being dissatisfied with the quantum so awarded, the appellant/claimant has filed this appeal seeking enhancement of the same.

2.The learned counsel for the appellant/claimant submitted that the award of Rs.40,000/- towards permanent disability is inadequate; the compensation awarded under other heads is also on the lower side; and hence, the same have to be enhanced substantially, considering the nature of the injuries sustained by the appellant/claimant and having regard to the facts and circumstances of the case.

3.Per contra, the learned counsel for the third respondent/ insurance company submitted that after properly analysing the materials and evidence available on record, 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.

4.Heard the learned counsel on either side and perused the materials available on record.

5.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 on negligence and liability fastened on the third respondent insurance company.

6.As regards the quantum of compensation, the Tribunal has awarded the total compensation of Rs.1,18,000/- to the appellant/claimant. According to P.W.1/appellant/claimant, in the accident, he sustained fracture injuries on head and left shoulder, besides receiving multiple injuries all over the body; he was 24 years old and was earning Rs.6,000/- per month by doing Textile and finance business. P.W.2/doctor, who treated the appellant/claimant, has deposed that the appellant/claimant took treatment at Lotus Hospital and Ex.P10 is medical bills and Ex.P15 is the prescription slip. P.W.3/doctor has deposed that the appellant/claimant sustained 36% permanent disability; Ex.P6 is the wound certificate; and Ex.P19 is the disability certificate. Considering those oral and documentary evidence and taking note of the nature of the injuries sustained by the appellant/claimant, this Court feels it just and appropriate to enhance the compensation awarded by the Tribunal towards permanent disability and pain and suffering to some extent. That apart, the appellant/claimant is entitled for the medical expenses actually incurred by him, as per medical bills marked before the Tribunal. Further, having regard to the fact that no amount was awarded towards attender charges and future medical expenses, this Court is inclined to award Rs.2,000/- and Rs.10,000/- respectively. However, there is no modification with regard to the award towards loss of income during treatment period, transport charges and extra nourishment, looking into the gravity of injuries sustained by the appellant/claimant. Accordingly, the break-up details of the modified compensation amount read as follows:

Head	Compensation awarded by the Tribunal (Rs.)	Compensation enhanced by this Court (Rs.)
Permanent disability at 36%	40,000/-	50,000/-
Medical Expenses	40,000/-	48,000/-
Loss of earning during the treatment period	6,000/-	6,000/-
Pain and suffering	25,000/-	35,000/-
Future Medical expenses	---	10,000/-
Transport expenses	2,000/-	2,000/-
Extra nourishment	5,000/-	5,000/-
attendant charges	----	2,000/-
Total	1,18,000/-	1,58,000/-

However, it is made clear that the enhanced sum of Rs.40,000/- shall carry interest at 7.5%pa from the date of filing of this appeal.

7.In fine, this appeal is partly allowed, by enhancing the quantum of compensation awarded by the Tribunal from Rs.1,18,000/- to Rs.1,58,000/-. No costs. The third respondent/Insurance Company is directed to deposit the entire compensation amount as awarded by this Court, 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 shall transfer the same to the savings bank account of the appellant/claimant, through RTGS within a period of one week thereafter.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
I Additional Subordinate Judge,Erode.

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

+1cc to Mr.R.Nalliyappan, Advocate SR.No. 70746

C.M.A.No.2558 of 2009

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A.SK(04/12/2020)