

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.274 of 2009

Veerasamy

... Appellant/Claimant

Vs

1. M.Suresh

2. The Branch Manager,
United India Insurance Co. Ltd.,
Sivan Complex, Imperial Road,
Cuddalore - 2. ... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 17.11.2008 made in MCOP No.125 of 1997 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Panruti.

For Appellant : Mr.S.Kalyanaraman

For Respondents : Mr.D.Baskaran (for R2)

JUDGMENT

The case in brief, is as follows:

On 27.03.1995, the appellant / claimant was travelling in the lorry bearing registration No. TN 31 0916, which was proceeding on the Panruti - Kumbakonam Main Road. At about 10.00 hours when the lorry reached near Kollukarankuttai, due to the rash and negligent driving of the driver of the lorry, the lorry went out of control and turned turtle. Due to the said impact, the appellant / claimant sustained grievous injuries. He filed a claim petition claiming compensation of Rs.1,50,000/-. The Tribunal, based on the materials and documents account, has fastened the liability on the respondents herein and awarded a compensation of Rs.15,000/- with interest at the rate of 7.5% per annum from the date of petition.

2.Challenging the same, the appellant / claimant has filed the present appeal for enhancement of compensation.

3.The learned counsel for the appellant has submitted that the Tribunal has erred in not appreciating Ex.P3/Accident Register extract properly. He further submitted that the compensation of Rs.15,000/- awarded by the Tribunal is not in consonance with the injuries suffered by the appellant / claimant.

4.Per contra, the learned counsel for the 2nd respondent submitted that the Tribunal has analysed the evidence on record properly and has awarded the just compensation which does not require any interference in the hands of this Court.

5.Heard the learned counsel appearing on either side and perused the materials available on record carefully and meticulously.

6.An analysis of the award of the Tribunal would go to show that the Tribunal has estimated the total compensation at Rs.15,000/-, without any break up details, based on Exs.P3 and P4. The Tribunal has also observed that the appellant has sustained four injuries and out of the same, three injuries are simple in nature and one injury is severe in nature.

7.However, one important aspect which the Tribunal has failed to consider properly Ex.P3-copy of the accident register. The injuries sustained by the claimant are as follows:

1. Diffused contusion on the left elbow
2. Diffused contusion on the shoulder
3. A lacerated injury of 5 cm X 1 cm X 1 cm. On the left leg
4. A lacerated injury of 3 cm X 1 cm X 1 cm on the back to left shoulder

8.There is no evidence or document forthcoming on side of the respondent either before the Tribunal or before this Court to establish the fact that the injuries are false. Considering the nature of injuries, this Court is of the view that awarding a sum of Rs.25,000/- in addition to the amount awarded by the Tribunal, would meet the ends of justice. If that is done, the compensation works out to Rs.40,000/- and accordingly the appellant / claimant is entitled to the modified compensation of Rs.40,000/-.

9.It is made clear that only for the compensation of Rs.15,000/-, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.25,000/-, the interest rate of 7.5% per annum shall be calculated from the date of filing of this appeal.

10. In the result, the Civil Miscellaneous appeal is allowed to the extent indicated above. No costs.

11. The 2nd respondent Insurance company is directed to deposit the modified award amount, as ordered above along with interest and costs 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. On such deposit being made, the appellant / claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CO MDU)

//True copy//

Sub Assistant Registrar

vum/srk

To

1. The Motor Accidents Claims Tribunal,
/Subordinate Judge, Panruti

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

+1cc to Mr. S. Kalyanaraman, Advocate SR.No.68850

+1cc to Mr. D. Baskaran, Advocate SR.No.69139

C.M.A.No.274 of 2009

MP (CO)
GMY (10/11/2020)

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