

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1697 of 2011

D.Jabakumar .. Appellant/Petitioner
Vs.

1.P.Umamaheswari

2.The Oriental Insurance Company Limited,
No.28, Karpura Street,
Periamet,
Chennai - 600 003. ... Respondent/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 15.11.2010 made in MC.O.P.No.718 of 2007 on the file of the IV Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Mr.K.A.Ravindran
For Mr.A.Shanmugaraj

For R1 : Exparte before the Tribunal

For R2 : Mr.M.Krishnamoorthy

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Order and Decree dated 15.11.2010 made in MC.O.P.No.718 of 2007 on the file of the IV Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

2. The averments made in the claim petition in brief are as follows:-

On 05.06.2006 at about 8.45 a.m., while the claimant was riding his motor cycle bearing Registration No.TN 22 AK 6539 along Old Mahabalipuram Road, a Bus bearing Registration No.KA 19 D 9279 was driven by its driver in a rash and negligent manner from the opposite direction and dashed against the claimant. As a result, the claimant sustained grievous injuries. The driver of the bus was responsible for the accident. The first respondent as the owner and the 2nd respondent as the Insurance Company are jointly and severally liable to pay compensation. Having not satisfied with the award

of compensation by the Tribunal, the claimant has preferred this appeal.

3. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.1,58,200/- with interest at 7.5% per annum.

4. Heard both sides and perused the materials on record.

5. During the Trial, the claimant/appellant was examined himself as P.W.1 and Doctor was examined as P.W.2 and Exhibits P1 to P11 were marked. On behalf of the respondent side, no oral and documentary evidence were adduced before the Tribunal.

6. It is seen from the Exhibit P5-Discharge summary that the injured was in-patient in Government Hospital from 05.06.2006 to 17.06.2006. He had suffered fracture of sub occipital bone, fracture left fronto tempo parietal bone, acute SDH extending upto foramen magnum and left ear injury. Exhibit- P6 is the Discharge summary shows that he had taken further in-patient treatment at Kalyani General Hospital from 22.06.2006 to 24.06.2006 for spinning sensation of head. Exhibit-P4 and Exhibit-P7 are the scan reports. Exhibit-P8 is the prescriptions shows that he had taken treatment at Sri Kanchi Kamakoti Sankara Hospital. Exhibit-P14 is the Disability Certificate issued by P.W.2 Dr.Thiagarajan also speaks about the same.

7. Taking into consideration that the claimant has sustained 60% disability, the Tribunal considering the date of the accident, has awarded Rs.2,000/- for 1% of 'disability' and awarded Rs.1,20,000/- and the same is hereby confirmed. For attender charges, it is seen that there is no award passed by the Tribunal. However, after going through Exhibit P5 and Exhibit P6 Discharge summary, in the interest of justice, Rs.10,000/- is hereby awarded for "attender charges".

8. Taking note of the injuries sustained by the claimant, it could be said that the appellant/claimant would not have attended duties for 5 months. Accordingly, the 'loss of income' during the period of treatment has been enhanced from Rs.9,300/- to Rs. 15,500/- (3100*5) and under the heads of 'Transport charges' and 'Extra nourishment' are enhanced at Rs.10,000/- each and under the head of 'pain and sufferings' is also enhanced to Rs.10,000/-. The appellant/claimant is entitled to a sum of Rs.15,000/- towards 'loss of amenities'. Hence, total compensation is hereby enhanced to Rs.2,04,400/- from Rs.1,58,200/- as awarded by the Motor Accidents Tribunal. The amount awarded is hereby tabulated:

Heads	Trial Court	High Court
Loss of Income	Rs. 9,300/-	Rs. 15,500/-
Transport to Hospital	Rs. 5,000/-	Rs. 10,000/-
Extra Nourishment	Rs. 5,000/-	Rs. 10,000/-
Medical Expenses	Rs. 13,900/-	Rs. 13,900/-
Pain and sufferings	Rs. 5,000/-	Rs. 10,000/-
Permanent disability	Rs. 1,20,000/-	Rs.1,20,000/-
Attender charges	---	Rs. 10,000/-
Loss of amenities	---	Rs. 15,000/-
Total	Rs. 1,58,200/-	Rs. 2,04,400/-

9. The learned counsel for the Insurance Company stated that the entire award amount has already been deposited the amount awarded by the Tribunal and the Insurance Company shall deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this judgment. Interest at the rate of 7.5% with regard to the enhancement of amounts shall accordingly be calculated for payment.

10. With the above enhancement in the amount awarded by the Tribunal, this Civil Miscellaneous Appeal is allowed. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

The IV Judge, Small Causes Court
(Motor Accidents Claims Tribunal),
Chennai.

Copy to

The Section officer
VR section, High Court, Madras 104.

+1 CC to Mr.A.Shanmugaraj, Advocate sr 21358.

+1 CC to Mr.M.Krishnamoorthy, Advocate sr 20397

C.M.A.No.1697 of 2011

MP (CO)
SP (09/05/2019)



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