

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1442 of 2015

Shankar

.. Appellant/Petitioner

Vs.

1. M.Nallaiyan

2. United India Insurance Company Limited,
Oriental Theatre Complex,
No.77, Arunachala Asari Street,
Salem - 636 001. .. Respondents/Respondents

(R1-Remained exparte before Tribunal, hence
notice may be dispensed with in this Appeal)

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, for enhancement of the compensation amount awarded in the judgment and decree dated 15.11.2012 made in M.C.O.P.No.906 of 2011 on the file of MACT/ Additional District Court at Namakkal.

For Appellant : Mr.Ma.P.Thangavel

For R-2 : M/s.I.Malar

R1 : Exparte before Tribunal

JUDGMENT

According to the appellant/claimant, on 11.04.2011 at about 11.00am, he was riding as a pillion in the TVS 50 two wheeler bearing Registration No. TN 48 B 8178 and his friend Kanagaraj was riding the said two wheeler. When they were going in Sevvandhipatty Main Road, a Tata ACC vehicle bearing registration No.TN 28 AE 1811 belonging to the first respondent and insured with the second respondent insurance company, came in a rash and negligent manner from the opposite direction and

dashed against the TVS 50, in which, the appellant was a pillion rider. Due to the said impact, the appellant sustained grievous injuries. Stating so, he filed a claim petition, claiming a compensation of Rs.8,00,000/-. On consideration of the materials and evidence available on record, the Tribunal has come to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the TATA ACC vehicle and awarded a total compensation of Rs.3,40,000/- with interest at 7.5% per annum from the date of petition. Feeling aggrieved and being dissatisfied with the quantum so determined by the Tribunal, the appellant has preferred this appeal seeking enhancement of the same.

2.The learned counsel for the appellant/claimant submitted that though the appellant was earning Rs.8,000/- per month by doing cattle merchant business, the Tribunal has fixed only the notional sum of Rs.4,500/- towards his monthly income; the Tribunal has awarded a lesser sum of Rs.40,000/- towards 40% permanent disability; the compensation awarded under other heads are also very meagre; hence, the same have to be enhanced substantially.

3.Per contra, the learned counsel for the second respondent Insurance company submitted that after properly analysing the materials and evidence, 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, this Court is not inclined to go into the findings of the Tribunal with respect of negligence as well as the liability of the second respondent insurance company to pay compensation.

6.As regards the quantum of compensation, P.W.1/claimant, has in his evidence, deposed that he was aged about 37 years and was earning a sum of Rs.8,000/- per month by doing cattle merchant business. However, no proof was produced to substantiate the same. P.W.2 doctor has narrated about the nature of the injuries sustained by the appellant/claimant. Ex.P4 is discharge summary, Ex.P5 is medical bills and Ex.P8 is disability certificate (40%). Considering those oral and documentary evidence adduced by the appellant/claimant, the Tribunal has awarded a sum of Rs.8,000/- for injuries, Rs.32,000/- towards loss of income, Rs.1,000/- towards transportation, Rs.35,000/- towards nourishment, Rs.35,000/- towards pain and suffering, Rs.79,000/- towards medical bills,

Rs.40,000/- towards disability and Rs.1,10,000/- towards loss of hearing power, in totalling Rs.3,40,000/-, which, in the opinion of this Court, are fair, just and reasonable and hence, the same need not be interfered.

7.Thus, 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 award amount along with interest and costs, as ordered by the Tribunal, less the amount 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 Tribunal shall transfer the amount lying in the deposit to the savings bank account of the appellant through RTGS within a period of one week thereafter.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District Judge,
The Motor Accidents Claims Tribunal
Additional District Court,
Namakkal.

Copy To

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

+1cc to M/s.I.Malar, Advocate, S.R.No.92011

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EV(CO)
CS/30/09/2020

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