

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.Nos.161 & 162 of 2012

G.Suresh Kumar ... Appellant
(in CMA.161 of 2012)

S.Rajendran ... Appellant
(in CMA.162 of 2012)

Versus

1.A.P.Annadurai

2.Reliance General Insurance Co.Ltd.,
Reliance House, 6th Floor,
Nungambakkam,
Chennai - 600 006.

... Respondents
(in both cases)

Common Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 11.07.2011 made in MACT.O.P.Nos.2695 & 2696 of 2009 on the file of the Motor Accidents Claims Tribunal, V-Judge, (Small Causes Court), Chennai.

For Appellant : Mr.R.Arundathan
(in both cases) for C & K law firm

For Respondents : Ex-parte - R1
(in both cases) : Mr.S.Arunkumar (for R2)

JUDGMENT

Suresh Kumar, the claimant in MCOP.No.2695 of 2009 has filed CMA.No.161 of 2012, while Rajendran, the claimant in MCOP.2696 of 2009 filed CMA.162 of 2012.

2.According to the claimants, on 09.08.2009, at 12.15 hrs, when they were travelling as rider and pillion rider in the motorcycle bearing Regn.No.TN-10-H-0031 along Velachery main road from north to south direction, near Kannigapuram, a Car bearing Regn.No.TN-22-BY-2224, which was owned by the first respondent, came in rash and negligent manner and dashed against the motorcycle and thereby the claimants sustained injuries. For the injuries sustained, the appellants claim compensation of Rs.9,00,000/- each. The Tribunal, after considering the oral and documentary evidence, awarded a sum of RS.5,82,000/- to the appellant in CMA.No.161 of 2012 and a sum of Rs.3,63,500/- to the appellant in CMA.No.162 of 2012.

3. Seeking enhancement of compensation to the extent of Rs.2,00,000/- each the appellants have filed these appeals, inter alia, pleading that amounts awarded by the Tribunal under the heads loss of earning, medical expenses and towards personal disability are too meagre.

4. Learned counsel for the second respondent/Insurance company reiterated the reasons that weighed with Tribunal in awarding compensation amount and prayed for dismissal of these appeals.

5. I have heard both parties on the point of quantum and perused the records.

6. Suresh Kumar/appellant in CMA.No.161 of 2012 examined himself as PW.1. The Doctor who examined him was examined as PW.3. Based upon the evidence adduced under Ex.P2/discharge summary, Ex.P20/ disability certificate fixing the disability at 60%, the Tribunal took the disability as 60% towards loss of earning and awarded at the rate of Rs.6000/- per percentage for four months. However, for the injuries sustained by the appellant, he could have taken at least five months treatment and this Court is of the view that a sum of Rs.30,000/- can be awarded towards loss of earning (i.e., Rs.6000 x 5) and awarded Rs.1,500/- per percentage of disability and arrived at Rs.90,000/-. However, this Court is of the view that the sum of Rs.2,000/- should be awarded for per percentage of disability and accordingly, a sum of Rs.1,20,000/- is arrived for 60% of disability suffered by the claimant in CMA.No.161 of 2012. For Transportation, a sum of Rs.10,000/- is awarded by enhancing the compensation as awarded by the Tribunal. As per Exs.P4/Inpatient bills and P5/outpatient bills, a sum of Rs.3,54,000/- was spent towards medical expenses. In view of the fact that out of the medical expenses a sum of Rs.1,00,000/- was reimbursed by the Insurance Company, a sum of Rs.2,54,000/- ought to have been awarded towards medical expenses. Thus, this Court enhances the medical expenses to Rs.2,54,000/-. The award of the Tribunal in all other aspects holds good. The break-up details of the modified award of the Tribunal is as follows:-

Description	Amount awarded by Tribunal	Amount awarded by this Court
Loss of earning	Rs.24,000/-	Rs.30,000/-
Transport to Hospital	Rs.2,000/-	Rs.10,000/-
Extra Nourishment	Rs.15,000/-	Rs.15,000/-
Damages to clothes	Rs.1,000/-	Rs.1,000/-
Medical expenses	Rs.2,00,000/-	Rs.2,54,000/-
Attender charges	Rs.15,000/-	Rs.15,000/-
Loss of amenities	Rs.15,000/-	Rs.15,000/-
Pain and suffering	Rs.20,000/-	Rs.20,000/-

Permanent Disability	Rs.90,000/-	Rs.1,20,000/-
Total	Rs.3,82,000/-	Rs.4,80,000/-

7.Rajendran/appellant in CMA.162 of 2012 examined himself as PW.2. Based upon the Accident Register/Ex.P13 and as per Exs.P14/Discharge summary and the deposition of PW.3/Doctor, who issued the disability certificate/Ex.P21 fixing the disability at 55%. the Tribunal took the disability as 55% towards loss of earning and awarded at the rate of Rs.6000/- per percentage for three months. However, for the injuries sustained by the appellant, he could have taken at least four months treatment and this Court is of the view that a sum of Rs.24,000/- can be awarded towards loss of earning (i.e., Rs.6000 x 4) and awarded Rs.1,500/- per percentage of disability and arrived at Rs.82,000/-. However, this Court is of the view that the sum of Rs.2,000/- should be awarded for per percentage of disability and accordingly, a sum of Rs.1,10,000/- is arrived for 55% of disability suffered by the claimant in CMA.No.162 of 2012. For Transportation, a sum of Rs.10,000/- is awarded by enhancing the compensation as awarded by the Tribunal. As per Exs.P14/discharge summary and P15/medical bills, a sum of Rs.2,86,245/- was spent towards medical expenses. In view of the fact that out of the medical expenses a sum of Rs.1,00,000/- was reimbursed by the Insurance Company, a sum of Rs.2,00,000/- awarded towards medical expenses by the Tribunal is hereby confirmed. The amount awarded by the Tribunal of Rs.10,000/- towards extra-nourishment is hereby enhanced to Rs.15,000/-. The award of the Tribunal in all other aspects holds good. The break-up details of the award of the Tribunal is modified and enhanced are as follows:-

Description	Amount awarded by Tribunal	Amount awarded by this Court
Loss of earning	Rs.18,000/-	Rs.24,000/-
Transport to Hospital	Rs.2,000/-	Rs.10,000/-
Extra Nourishment	Rs.10,000/-	Rs.15,000/-
Damages to clothes	Rs.1,000/-	Rs.1,000/-
Medical expenses	Rs.2,00,000/-	Rs.2,00,000/-
Attender charges	Rs.15,000/-	Rs.15,000/-
Loss of amenities	Rs.15,000/-	Rs.15,000/-
Pain and suffering	Rs.20,000/-	Rs.20,000/-
Permanent Disability	Rs.82,500/-	Rs.1,10,000/-
Total	Rs.3,63,500/-	Rs.4,10,000/-

8.In the result, this Civil Miscellaneous Appeals are partly allowed.

<https://hcservices.ecourts.gov.in/hcservices/> The compensation amount of Rs.3,82,000/- and Rs.3,63,500/- in the respective claim petitions awarded by the Tribunal are hereby enhanced to Rs.4,80,000/- and Rs.4,10,000/-

respectively, along with interest at the rate of 7.5% per annum, from the date of petition till the date of realisation.

(ii) The second respondent/Insurance company is liable to pay the compensation amount of Rs.4,80,000/- and Rs.4,10,000/- respectively, to the appellants/claimants, together with interest of 7.5%, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iii) On such deposit being made, the appellants/claimants are permitted to withdraw the entire amount, as determined in this appeal, with accrued interest.

(iv) The appellant is directed to pay additional Court fee for the enhanced amount. No costs.

Sd/-
Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

klr

To

1. The Motor Accidents Claims Tribunal,
V-Judge, (Small Causes Court), Chennai.
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1cc to Mr.S.Arunkumar, Advocate SR.No.40032

+1cc to Mr.C.Munusamy, Advocate SR.No.40110

सत्यमेव जयते

C.M.A.Nos.161 & 162 of 2012

KS (CO)
GMY (26/11/2019)

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