

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2430 of 2011

C.Saravanan

.. Appellant/ Petitioner

Vs.

1.M.Sathiskumar

(R1 was set exparte in the trial Court)

2.Bajaj Allianz General Insurance Co.Ltd.,

4th Floor, Prince Towers,

College Road, Nungambakkam,

Chennai - 34

.. Respondents/ Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 24.03.2011 made in MACT.O.P.No.711 of 2008 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Vellore District, Vellore.

For Appellant : Mr.R.Nalliyappan

For R1 : Exparte before the Tribunal

For R2 : Mr.N.Vijayaraghavan

JUDGMENT

This Civil Miscellaneous Petition has been filed against the Judgment and Decree dated 24.03.2011 made in MACT.O.P.No.711 of 2008 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Vellore District, Vellore.

2.On 17.02.2008 at about 2.30 p.m while the claimant/appellant was going on his TVS moped from Kollakottai to Latheri and when he came near Jayakumar Poultry farm, a car bearing Registration No.TN-02-AA-4188 came in a rash and negligent manner and hit the claimant/appellant. He is alleged that his leg was fractured and was sent to Chennai for further

treatment and he also alleged that Panamadangi police has registered the case in Crime No.19 of 2008 and investigated the case. It is also stated that he was an auto driver earning Rs.7,000 P.M. Hence, the appellant/claimant has filed the Claim Petition before the Tribunal, claiming compensation of Rs.6 lakhs.

3. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.90,000/- with interest at 7.5% per annum.

4. Heard both sides.

5. After hearing both sides and taking note of the fact that the Medical Bills Exhibits P.12 and P.13, Exhibit P14 Disability Certificate and also the evidence of the Doctor P.W.2 Shanmughasundaram, the "disability" has been fixed at 35% and the Tribunal restricted the same to 25% and accordingly Rs.25,000/- has been awarded.

6. Taking into consideration the disability suffered by the claimant, this Court enhances the percentage of disability to 30% and accordingly, awards an amount of Rs.60,000/-. For attender charges, it is seen that there is no award for the same by the Tribunal. However, after going through Exhibit P6 and Exhibit P7 Discharge summary, in the interest of justice, Rs.7,000/- is hereby awarded for "attender charges".

7. Further, the Medical Bills have been produced as per Exhibits P12 and P13 and the Tribunal awarded Rs.20,000/- for medical expenses. This Court, considering the medical bills produced, is of the view that Rs.24,000/- shall be awarded for the "medical expenses". The amounts awarded under the head "pain and suffering" and "transportation" do not call for any interference. For "extra-nourishment", this Court awards Rs.4,000/-. Hence, total compensation is hereby enhanced to Rs.1,40,000/- from Rs.90,000/- as awarded by the Motor Accidents Tribunal and hence, the award amount in M.C.O.P.No.711 of 2018 stands modified as that of Rs.1,40,000/-. The amount awarded is hereby tabulated:

Head	Trial Court	High Court
Disability	Rs.25,000/- [25%]	Rs.60,000/- [30%]
Attender Charges	----	Rs. 7,000/-
Medical Bills	Rs.20,000/-	Rs.24,000/-
Pain & Sufferings	Rs.30,000/-	Rs.30,000/-

Head	Trial Court	High Court
Transportation	Rs.15,000/-	Rs.15,000/-
Extra Nourishment	----	Rs. 4,000/-
Total	Rs. 90,000/-	Rs. 1,40,000/-

8. The learned counsel for the Insurance Company stated that the entire award amount has already been deposited 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.

9. 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.

nvi

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

To
The Motor Accidents Claims Tribunal
(Chief Judicial Magistrate),
Vellore District, Vellore.

Copy to:-

The Section Officer,
V.R.Section,
High Court, Madras - 104.

+1cc to Mr.M.B.Gopalan, Advocate, SR.No.10393
+1cc to Mr.R.Nalliyappan, Advocate, SR.No.9255

C.M.A.No.2430 of 2011

Kak (13/06/2019)