

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2485 of 2011

Sudhakar

.. Appellant

Vs.

1.V.Chikkaramappa

2.The Branch Manager,
Oriental Insurance Company Limited,
Arunagiri Complex,
Bye-pass Road,
Hosur.

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 18.04.2011 made in M.C.O.P.No.550 of 2009 on the file of the Motor Vehicle Claims Principal Subordinate Judge, Krishnagiri.

For Appellant : Mr.Mukund R.Pandiyan

For R1 : No appearance

For R2 :Mr.S.Jeyaram

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 18.04.2011 made in M.C.O.P.No.550 of 2009 on the file of the Motor Vehicle Claims Principal Subordinate Judge, Krishnagiri.

2.On 29.07.2008 at about 13 hours, the appellant/claimant was proceeding on the Bagalur to Uliyalam Road in his motor cycle along with a pillion rider. At that time, a tempo bearing Registration No.KA-3-A-4908 belonging to the 1st respondent was going in front of the claimant. Suddenly, turned right without any signal and dashed against the claimant's two wheeler and caused the accident. Due to the impact of the accident, the appellant/claimant sustained injuries.

3. P.W.2 who is Doctor was examined and P.W.2 has stated that due to the impact of the accident, the claimant could not lift weights and could not do hard work as before the accident due to malunion of fractured bone. Hence, P.W.2 assessed the disability as 45%. During the cross examination, it was suggested that the assessment of the P.W.2 is highly excessive. But, it was denied by the P.W.2. On the side of the respondent, there is no contra evidence to shatter the evidence of P.W.2. In such circumstances, the evidence of P.W.2 is an acceptable one.

4. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.1,14,140/- with interest at 6% per annum.

5. Heard both sides.

6. After hearing the learned counsel for the appellant and also after going through the Medical evidence of P.W.2 Doctor who had assessed the disability sustained by the claimant in the accident is arrived the disability at 45%. Based upon Exhibit A4 -Discharge summary, Exhibit A9 - Disability Certificate and Ex.A10 X-ray, the permanent disability arrived at by P.W.2 need not be interfered with.

7. Taking into consideration that the date of the accident being 29.07.2008, the compensation under the head of "permanent disability" has been increased Rs.90,000/- from Rs.45,000/- and for "Extra Nourishment" Rs.5,000/- has been awarded separately and for "loss of amenities" Rs.5,000/- and for "Medical Assistance charges" has been awarded Rs.9,000/- from Rs.2,000/- and for "Medical Expenses" has been awarded Rs.57,135.91/- has been awarded. Hence, total compensation is hereby enhanced to Rs.1,66,140/- from Rs.1,14,140/- as awarded by the Motor Accidents Tribunal and hence, the award amount in M.C.O.P.No.550 of 2009 stands modified as that of Rs.1,66,140/-

Heads under which the amount is awarded	Amount awarded by the Tribunal	Amount awarded by this Court
Permanent disability	Rs. 45,000/-	Rs. 90,000/-
Transport to hospital & Extra Nourishment	Rs. 5,000/-	Rs. 5,000/-
Pain and sufferings	Rs. 5,000/-	Rs. 5,000/-

Heads under which the amount is awarded	Amount awarded by the Tribunal	Amount awarded by this Court
Medical Assistance	Rs. 2,000/-	Rs. 9,000/-
Medical Expenses	Rs. 57,135.91	Rs. 57,135.91
Total	Rs.1,14,135.91	Rs. 1,66,135.91
Rounded off	Rs. 1,14,140/-	Rs.1,66,140/-

8. The award amount granted by the Motor Accidents Claims Tribunal, Vellore, to the tune of Rs.1,66,140/- is enhanced as above.

9. The learned counsel for the 2nd respondent-Insurance Company stated that the entire award amount passed by the Tribunal has already been deposited and the 2nd respondent-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. The claimants are permitted to withdraw the compensation before the Tribunal in accordance with law.

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

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

The Motor Vehicle Claims Principal Subordinate Judge,
Krishnagiri..

+1cc to Mr.Mukund R.Pandiyan, Advocate SR.No.10981

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PP (CO)
GMY (22/08/2019)



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