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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN
C.M.A.No.2500 of 2011

V. Thangadurai

...Appellant/Petitioner

Vs.

1.V. Devendraprabhu

2. The New India Assurance Co Ltd.,
Divisional Office, Premier Complex,
Yercaud main Road, 5 roads, Salem -16.

3. S. Selladurai [Given up]

4. National Insurance Co Ltd.,
Divisional Office, Balaji Tower,
No.11, Ramakrishna Road,
Salem -7. [Given up]

... Respondents/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the order made in M.C.O.P.No.1950 of 2005 on the file of the Motor Accident Claims Tribunal cum Additional District Judge, (Fast Track Court No.1, Salem) dated 15.06.2010.

For Appellant : Mr.C. Kulanthaivel
For Respondents : R1 - Ex-Parte
Mr.P. Kandasamy for R2
R3 and R4 given up

JUDGMENT

The appellant is the claimant in M.C.O.P.No.1950 of 2005, on the file of the Motor Accident Claims Tribunal-cum Additional District Judge, Fast Track Court No.1, Salem. He has filed the above said claim petition, seeking enhancement of compensation awarded by the Tribunal.

2. The brief facts, which are necessary for disposal of the appeal, are as follows:-



On 17.09.2005, the claimant was returning to Salem in an ambassador car bearing Registration No.TN-30-X-572 after attending a marriage function in Chennai. He was travelled along with his wife, son, daughter-in-law and two grand children. The claimant was sitting in back right side of the ambassador car. At about 6.00 A.M., when the ambassador car was going in Salem to Attur Main Road, near Kothambady Geethalaya Kalyanamandabam, one Eicher Tempo bearing Registration No.TN-74-D-7089, which came in the opposite direction in a rash and negligent manner without giving any horn sound and signal, dashed against the ambassador car. As a result of which, the claimant got 4 numbers of teeth broken on the lower jaw, 4 numbers of teeth broken on the upper jaw, cut injury in right side hand shoulder, cut injury in right side forehead and lips tarred and cut injury inside mouth and cut injury in right side leg 1st finger, cut injury in left side leg last finger and cut injury in right side and left side leg knee, lacerated injuries all over the body and others also injured. Hence, for the injuries sustained by him, he has filed the above claim petition before the Tribunal claiming a sum of Rs.5,00,000/- as compensation.

3. Before the Tribunal, on the side of the claimant, five witnesses were examined as P.Ws.1 to 5 and 27 documents were marked as Exs.P.1 to P.27. On the side of the respondents before the Tribunal, no witnesses were examined and no documents were marked. But one Court Exhibit was marked as Ex.C.1.

4. The Tribunal, after considering both oral and documentary evidence adduced on the side of the claimant, has awarded a sum of Rs.48,734/- together with interest at 7.5% per annum from the date of the claim petition till realisation and proportionate costs.

The break up particulars are as follows:-

Particulars	Amount awarded by the Tribunal
As per Ex.A7 hospital bills	Rs.13,050/-
As per Ex.A8 medical bills.	Rs.4,684/-
As per Ex.A.2 wound certificate	Rs.16,000/-
As per Ex.14 disability certificate	Rs.15,000-
Total	Rs.48,734/-



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5. As against the said award passed by the Tribunal, the claimant has preferred this appeal before this Court seeking enhancement of compensation.

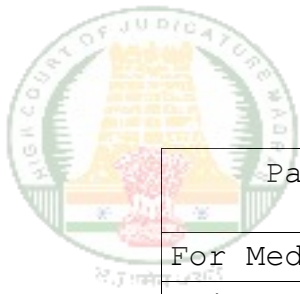
6. The learned counsel appearing for the appellant/claimant would contend that the Tribunal has failed to consider the injuries, which are grievous in nature, sustained by the claimant. Further, the Tribunal has failed to consider the evidence of P.W.3-Doctor, who had assessed the permanent disability at 30%. The learned counsel would submit that the Tribunal has awarded only a meagre sum of Rs.48,734/- as compensation and hence, prays for enhancement of the award passed by the Tribunal.

7. The learned counsel appearing for the second respondent/Insurance Company would contend that the Tribunal, after considering the evidence adduced on the side of the claimant, awarded just and reasonable compensation to the claimant and hence, prays for dismissal of this appeal.

8. This Court has considered the submissions made by the learned counsel appearing for the appellant/claimant and the learned counsel appearing for the second respondent/insurance company and perused the materials available on record.

9. On a perusal of the records, it is seen that the deceased was aged about 65 years at the time of accident, and he was earning a sum of Rs.15,000 per month and due to the accident, the claimant has sustained grievous injuries all over the body and PW.3/Doctor, who has issued the disability certificate/Ex.A.26, has assessed the disability suffered by the claimant at 30%. After taking into consideration the nature of injuries sustained by the claimant, as per the medical bills, the Tribunal has awarded a sum of Rs.48,734 towards compensation and not awarded under any other heads.

10. Hence, this Court is of the considered view that some amount can be awarded under the other heads. The amount of Rs.48,734/- awarded by the Tribunal towards medical expenses is confirmed. Further, this Court awards a sum of Rs.15,000/- towards pain and sufferings, a sum of Rs.15,000/- towards loss of amenities, a sum of Rs.10,000/- towards transportation, a sum of Rs.2,000/- towards attender charges and a sum of Rs.10,000/- towards nutrition. Accordingly, the award of the Tribunal stands enhanced as follows:-



Particulars	Amount awarded by the Tribunal	Amount awarded by the High Court
For Medical Bills	Rs.48,734/-	Rs.48,734/-
Pain and Suffering	-Nil-	Rs.15,000/-
Loss of Amenities	-Nil-	Rs.15,000/-
Transportation	-Nil-	Rs.10,000/-
Attender Charges	-Nil-	Rs.2,000/-
Nutrition	-Nil-	Rs.10,000/-
Total	Rs.48,734/-	Rs.1,00,734/-

11. In the result,

I. This Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.48,734/- to Rs.1,00,734/-.

II. The interest granted by the Tribunal at 7.5% stands confirmed.

III. The second respondent-Insurance Company is directed to deposit the enhanced amount within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

IV. On such deposit being made, the appellant/claimant is permitted to withdraw the entire award amount, less the amount already withdrawn, if any.

V. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation.

VI. No order as to costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

smn

To

1. The Motor Accidents Claims Tribunal,
Additional District Judge, Fast Track Court.
Salem.



2.The Section Officer,
V.R.Section, High Court,
Madras.

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+1 cc to M/s.P.Kandasamy Advocate sr30334

C.M.A.No.2500 of 2011

aa22/11/2019