

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.08.2019
CORAM
THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.1872 of 2013

K.Kumar

... Appellant / claimant

..vs..

1.A.Ramesh

(R1 was set exparte in the Trial Court)

2.United India Insurance Co. Ltd.,

Andiappa Gramani Street,

Royapuram,

Chennai-600 013.

... Respondents/Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree, dated 29.10.2012 made in MACT. O.P.No.755 of 2009 on the file of the Motor Accident Claims Tribunal (XVII Additional District and Session Judge), Chennai.

For Appellant : Mr. M.Sudha for Mr.C.Munusamy

For Respondents: Mr.C.Paranthaman R2

Ex-parte R1

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant / claimant, challenging the quantum of compensation awarded by the Claims Tribunal.

2.According to the appellant/claimant, on 14.01.2009 at 13.30 hrs at Adambakkam N.G.O.Colony near Kakkan Nagar 1st street, Chennai, the Auto-rickshaw bearing Reg.No.TN-22-L-2129, hit on the electric post due to the rash and negligent driving of its driver, and got capsized and due to the same, the appellant / claimant sustained grievous injuries. The 2nd respondent is the insurer of the said vehicle. The injured, K.Kumar/appellant has filed a petition for compensation before the Tribunal for a sum of Rs.6,00,000/-.

3.The Tribunal, based upon the facts, materials, evidence and also based upon the II Schedule of the Motor Vehicles Act, has calculated the loss of income during treatment period at Rs.27,000/-, disability at Rs.1,20,000/-, pain and sufferings at

Rs.25,000/-, Nutrition at Rs.3,000/- and transportation at Rs.3,000/- and the total compensation was estimated at Rs.1,78,000/-. Thus, the Tribunal has awarded the said sum of Rs.1,78,000/- with interest at the rate of 7.5% per annum from the date of petition, as total compensation, against which, the appellant has filed the present appeal.

4.Head both sides.

5.The learned counsel for the appellant / claimant submitted that the award passed by the Tribunal is too low, which needs substantial enhancement; in any event, the total compensation awarded by the Tribunal on each and every heads does not commensurate with the injuries sustained by the claimant; the doctor has assessed the disability at more than 65%, but the Tribunal has taken the same only at 60%.

6.Per contra, the learned counsel for the second respondent / Insurance Company submitted that the award passed by the Tribunal perfectly matches with the settled principles of law and probabilities of the case and hence, interference on the same is uncalled for.

7.This Court is of the opinion that the compensation awarded under all the heads by the Tribunal are reasonable, weight of evidence and based on settled principles.

8.Having given a finding that the accident had occurred only due to the rash and negligent driving of the driver of the auto-rickshaw, the Tribunal has ordered both the driver of the vehicle and the Insurance Company to pay compensation to the claimant, jointly and severally. Taking the age of the appellant as 36, monthly income at Rs.4,500/-, the loss of income during treatment period was awarded by the Tribunal. The Tribunal has rightly adopted the conventional methodology and awarded the compensation under the heads, Transportation expenses, nutrition, permanent disability and pain and sufferings, which in the opinion of this Court is nothing but just and hence, the same need not be interfered.

9.In the result, this Civil Miscellaneous Appeal filed by the appellant / claimant is dismissed. No costs. The Insurance Company / R-2 shall deposit the compensation amount, along with interest and costs, as ordered by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such

deposit being made, the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the appellant/claimant through RTGS within one week thereafter.

Sd/-
Asst.Registrar (CS V)

/true copy/
Sub Asst. Registrar

rri/srk
To

1. XVII Additional District and Session Judge,
Motor Accident Claims Tribunal,
Chennai.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai.

+1 cc to Mr.C.Parathan Advocate sr70033

C.M.A.No.1872 of 2013

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