

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.268 of 2011

P.Muthukrishnan

.. Appellant /Petitioner

Vs.

1.S.Kabeerdass

(R1 was set exparte in trial court)

2.United India Insurance Company Limited,
Motor Third Party Claims Office,
No.38, Anna Salai, Chennai - 600 002.

3.G.Venkatachalam

(R3 was set exparte in the trial Court)

4.The Oriental Insurance Company Limited,
Regional Office, UTI Buildings,
No.8, Esplanade, Chennai - 600 108

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 17.02.2010 made in M.A.C.T.O.P.No.2655 of 2003 on the file of the Motor Accidents Claims Tribunal (Additional District and Sessions Judge) [Fast Track Court No.III], Chennai.

For Appellant : Mr.R.Arundattan

For M/s.C and K Law Firm

For R4

:Mr.P.Kandasamy

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 17.02.2010 made in M.A.C.T.O.P.No.2655 of 2003 on the file of the Motor Accidents Claims Tribunal (Additional District and Sessions Judge) [Fast Track Court No.III], Chennai.

2. On 19.02.2003 at 10.00 a.m when the appellant/claimant was travelling as a pillion rider in a Motor

Cycle bearing registration No.TN 32 W 0825 the rider of the Motor cycle dashed against another Motor Cycle bearing registration No.TN 31 D 2037 which was also came in a rash and negligent manner on a junction of Devianthal Inter Section Road as a result of which, the appellant/claimant was thrown out and he had sustained grievous multiple injuries.

3. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.67,000/- with interest at 9% per annum.

4. Heard both sides.

5. The Tribunal after taking into consideration of P.W.1 coupled with Exhibit P8 came to the conclusion that the accident has taken place due to the rash and negligent driving of the two wheeler having the registration No.TN 32 W 0825 namely the first respondent and the second respondent having the insurer R1 and R2 before the Tribunal and after hearing both sides and taking note of the fact that the Medical Bills Exhibits P.7, Exhibit P10 Disability Certificate and also the evidence of the Doctor P.W.2 Thivagarajan, the "disability" has been fixed at 25% and the Tribunal restricted the same to 25% and accordingly Rs.30,000/- has been awarded.

6. Taking into consideration the disability suffered by the claimant, this Court enhances the percentage of disability and accordingly, awards an amount of Rs.50,000/-.

7. Considering the fact that a sum of Rs.10,000/- is claimed by the appellant/claimant as compensation under the head of "transportation" from the place of accident to the hospital. No document is produced to prove such fact. However, considering the fact that he has met with an accident at Villupuram District and he was taken to General Hospital, Chennai, the Tribunal awarded a sum of Rs.5,000/- as compensation under this head. This Court, considering the fact that a sum of Rs.10,000/- shall be awarded for the "Transportation".

8. The Tribunal has not awarded any amount under the head of "loss of amenities", this Court finds it appropriate award for a sum of Rs.10,000/- towards "loss of amenities" considering the facts and circumstances of the case.

9. For attender charges, it is seen that there is no award for the same by the Tribunal. However, after going through Exhibit P1 and Exhibit P2 Discharge summary, in the interest of justice, Rs.10,000/- is hereby awarded for "attender charges".

10. Further, the amounts awarded under the head "loss of

earning", "extra nourishment", "medical expenses" and "pain and suffering" do not call for any interference. Hence, total compensation is hereby enhanced to Rs.1,12,000/- from Rs.67,000/- as awarded by the Motor Accidents Tribunal. The amount awarded is hereby tabulated:

Heads	Trial Court	High Court
Disability	Rs. 30,000/-	Rs. 50,000/-
Loss of earning	Rs. 3,000/-	Rs. 3,000/-
Transportation	Rs. 5,000/-	Rs. 10,000/-
Extra nourishment	Rs. 5,000/-	Rs. 5,000/-
Medical expenses	Rs. 14,000/-	Rs. 14,000/-
Pain and suffering	Rs. 10,000/-	Rs. 10,000/-
Attender Charges	----	Rs. 10,000/-
Loss of amenities	----	Rs. 10,000/-
Total	Rs. 67,000/-	Rs.1,12,000/-

11. In the result,

i) this Civil Miscellaneous Appeal is allowed and the amount of compensation awarded by the Tribunal is hereby enhanced to Rs.1,12,000/- from Rs.67,000/- with 7.5% interest per annum from the date of claim petition till the date of payment. No costs.

ii) As against the dismissal of the M.C.O.P against the respondents 3 and 4 are concerned, no appeal has been filed. In the absence of any positive evidence, the same is hereby confirmed.

iii) The respondents 1 and 2 are hereby directed to deposit the amount including the enhanced award amount within a period of eight weeks from the date of receipt of a copy of this order.

iv) The appellant/claimant is permitted to withdraw the amount in accordance with law.

v) The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal
(Additional District and Sessions Judge)
[Fast Track Court No.III], Chennai.

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

3.United India Insurance Company Limited,
Motor Third Party Claims Office,
No.38, Anna Salai, Chennai - 600 002.

+1cc to Mr.C.Munusamy, Advocate, S.R.No. 15218

+1cc to Mr.P.Kandasamy, Advocate, S.R.No. 14936

C.M.A.No.268 of 2011

AK(CO)
GN(08/05/2019)

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