

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2181 of 2013

Jayapal

.. Appellant/Petitioner/
Claimant

Vs.

1. Madesh, K.Babapriya

2. Vettrivel

3. The Divisional Manager,
The United India Insurance Co.Ltd,
No.46, Katpadi road,
Vellore.

4. The Divisional Manager,
The New India Assurance Co.Ltd,
No. 106, Big Street,
Tiruvanamalai.

.. Respondents/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 28.09.2010 and made in M.A.C.T.O.P.74 of 2006 on the file of the Motor Accidents Claims Tribunal/Principal Subordinate Judge, Tiruvannamalai.

For Appellant : Mrs.Subadra
for M.Malar

For Respondents : Mrs.I.Malar,
for R3.
Mr.M.Krishnamoorthi

for R4.
R1 & R2 - Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-claimant against the Judgment and Decree dated 28.09.2010 in M.C.O.P.No.74 of 2006 on the file of the Motor Accident Claims Tribunal/Principal Subordinate Judge, Thiruvannamalai, seeking enhancement of compensation.

2. The appellant has filed the claim petition before the Tribunal seeking total compensation of Rs.1,00,000/- for the accident that took place on 27.12.2000. According to the appellant, on 27.12.2004, at 3.00 A.M., he was travelling as a passenger from Salem to Arur near Naachinampatti in a van bearing Registration No.TN 32 A 6598 belonging to the second respondent and insured with the fourth respondent. At that time, a lorry bearing Registration No.TN 01 V 4669 belonging to the first respondent and insured with the third respondent came in a rash and negligent manner and hit the above said van, as a result of which, the appellant sustained grievous injuries. The other passengers in the vehicle were also injured. Various original petitions were filed by the injured persons claiming compensation for the injuries sustained by them.

3. Before the Tribunal, on the side of the appellant, PW1 to PW4 were examined and Exs.P1 to P19 were marked. On the side of the respondents, no oral or documentary evidence was marked.

4. The learned Motor Accident Claims Tribunal / Principal Subordinate Judge, Tiruvannamalai, after analysing the evidence and records, fixed the liability on the respondents 1 and 3 and awarded compensation of Rs.83,000/- together with interest at the rate of 7.5% to the appellant. Not being satisfied with the quantum of compensation, the injured has come forward with this Civil Miscellaneous Appeal.

5. The learned counsel for the appellant submitted that the appellant has sustained fractures of 10th right rib, left ring finger and grievous injuries all over the body and the Tribunal without considering the same, awarded very meagre compensation. The learned counsel further submitted that the Tribunal failed to award compensation under the heads damage to clothes and articles, mental agony and loss of amenities. She also prayed for enhancing the compensation under other heads.

6. The learned counsel appearing for the respondents 3 & 4 submitted that the award amount of Rs.83,000/- is just and proper and the same does not require interference by this Court.

7. This Court has heard the arguments on both sides and perused the materials available on record.

8. The appellant has sustained injuries due to the accident that took place on 27.12.2004. It is seen that the appellant took treatment at Harur Government Hospital and Tiruvannamalai Government Hospital for the injuries sustained by him. A perusal of the records shows that the appellant sustained fracture of 10th right rib and an injury in left ring finger. Dr.Ravindran (PW4) assessed the partial permanent disability at 30%. The Tribunal after analysing the evidences, awarded a sum of Rs.60,000/- towards partial permanent disability, which cannot be said to be meagre. A perusal of the compensation awarded under other heads also shows that they are just and reasonable. Hence, this Court is not inclined to interfere with the award passed by the Tribunal.

9. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award granted by the Tribunal. The respondents 1 and 3 are directed to comply with the directions given in the award dated 28.09.2010. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

kmm
To

1. The Motor Accidents Claims Tribunal/
Principal Subordinate Judge,
Tiruvannamalai.

2.The Section Officer
VR section
High Court, Madras

+1 cc to M/s.I.Malar Advocate sr 103376
+1 cc to M/s.M.Malar Advocate sr103715
+1 cc to M/s.M.Krishnamoorthy Advocate sr103617

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