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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.3815 of 2019

Sampoornam ... Appellant /petitioner(Claimant)

Vs.

1. C.Poomalai
2. National Insurance Company Limited,
1st Floor, No.638 Cuddalore Main Road,
Attur, Salem District 636 102
(No relief sought against R-1, hence notice
may be dispensed with) ... Respondents /Respondents
(Insured & Insurer)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.10.2018 in MCOP No.91 of 2009 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Poonamallee, Thiruvallur District.

For Appellant : Mr. C.Prabakaran

For Respondents : Mr. D.Baskaran, for R-2

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the appellant/claimant as against the award and decree dated 09.10.2018 made in MCOP No.91 of 2009 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Poonamallee, Thiruvallur District.

2. On 07.08.2008, at about 18.30 hrs, the claimant was travelling as a pillion rider in the Hero-Honda two-wheeler bearing Registration No.TN20-Q-4336 and at that time, the first respondent's lorry bearing Registration No.TCE-9960, which was coming behind the claimant's two-wheeler in a rash and negligent manner, dashed against the claimant's two-wheeler, due to which, he sustained multiple injuries all over the body. Stating so, he filed a claim petition before the Claims Tribunal claiming a sum of Rs.5,00,000/- as total compensation.



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3. The Tribunal, after elaborate trial, has fixed the negligence on the driver of the lorry and ultimately has arrived at the total compensation at Rs.1,37,500/- under the following break-up details:-

Disability at 30%	-	Rs.	90,000/-
Pain and suffering	-	Rs.	10,000/-
Medical Expenses	-	Rs.	5,000/-
Loss of income			
(Rs.7,500/- x 3)	-	Rs.	22,500/-
Transport Expenses	-	Rs.	5,000/-
Extra nourishment	-	Rs.	5,000/-

		Rs.	1,37,500/-

4. Branding the award as disproportionate and lesser, the claimant, as appellant, has preferred this Appeal.

5. The learned counsel for the appellant / claimant has submitted that the claimant has incurred medical expenses to the tune of Rs.46,826/-; that the medical bills were unable to be marked before the Tribunal, since the same were misplaced during trial; that in fact, the medical bills and expenses have been pleaded in the claim petition and in the proof affidavit, but the bounded volume of medical bills were suddenly misplaced due to inadvertence and when the same were found subsequently, CMP No.19664 of 2019 has been filed before this Court seeking to receive the same as additional evidence; that this Court, after appearance of the second respondent (contesting respondent), has ordered to mark the said medical bills as additional evidence under Ex.X-1. The learned counsel therefore submitted that taking into consideration Ex.X-1, medical bills, a sum of Rs.46,826/- has to be separately awarded by this Court under this head. The learned counsel for the appellant further submitted that the amounts awarded towards pain and suffering, transportation expenses and extra nourishment are very low.

6. Per contra, the learned Standing Counsel for the second respondent / Insurer submitted that the Tribunal has analysed each and every aspect into consideration and has awarded the compensation, which does not require any interference by this Court. However the learned counsel fairly submitted that though Ex.X-1-Medical Bills marked before this Court was not produced before the Tribunal and since the non-marking of the same before the Tribunal may be due to inadvertence, the compensation claimed at Rs.46,826/- under Ex.X-1 may be awarded by this Court.



7. This Court has considered the said submissions made by the learned counsel for both sides and perused the materials available on record.

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8. Since the Appeal is preferred by the claimant seeking enhancement of the compensation, this Court would like to go into the quantum of compensation awarded by the Tribunal alone, eschewing the negligence aspect.

9. It is seen from records that the claimant has suffered laceration at left ear, fracture of left rib, left haemopneumothorax, contusion on the left lung upper lobe, left surgical emphysema, left pinna crush injury, right clavicle fracture and splenic injury. The said injuries / fractures are supported by Exs.P-3 and P-4-Discharge summaries. Further, considering the submissions made by the learned counsel for both sides and in view of the 'No Objection' expressed by the learned standing counsel for the second respondent on Ex.X-1, medical bills, a sum of Rs.46,826/- is now awarded towards Medical Expenses, in addition to Rs.5,000/- awarded by the Tribunal under this head.

10. The yardstick of compensation should not be abysmal. Laws should value human life and there should be realistic compensation. This Court is of the view that the Tribunal has applied its mind in a proper manner and has awarded compensation under all the heads, except medical expenses.

11. In the result, the Civil Miscellaneous Appeal is partly-allowed, by enhancing the total amount of compensation from Rs.1,37,500/- to Rs.1,84,326/- with interest at the rate of 7.5% per annum from the date of petition. No costs. The second respondent / Insurance Company shall deposit the enhanced compensation amount, along with interest and costs, as ordered above, 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 claimant / injured / appellant herein, forthwith, through RTGS.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar



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The II Additional District Judge,
Motor Accident Claims Tribunal,
Poonamallee, Thiruvallur District.

Copy to

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

+1cc to Mr.C.Prabakaran, Advocate Sr.86196
+1cc to Mr.D.Bhaskaran, Advocate Sr.86388

C.M.A.No.3815 of 2019

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srg 29/07/2021