



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 15.03.2019

Judgment Pronounced on : 27.06.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3726 of 2011

Annadurai

... Appellant/Petitioner

Versus

1.Manoharan

2.Sarathamani

[Notice for R1 & R2 are dispensed with
since they were set ex-parte before the Tribunal]

3.The New India Assurance Co, Ltd.,
Amman Complex, 1st floor, E.K.N Road,
Erode - 630 011.

... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 02.07.2010 made in MCOP.No.208 of 2009 on the file of the Motor Accident Claims Tribunal (Additional District Judge) Fast Track Court No.4, Bhavani, Erode District.

For Appellant : Mr.C.Kulanthaivel

For Respondents: Ex-parte - R1 & R2

: Mr.J.Michael Visuvasam (for R3)

JUDGMENT

The claimant is the appellant herein, who has filed this appeal as against the Award dated 02.07.2010 passed in MCOP.No.208 of 2009 on the file of the Motor Accident Claims Tribunal (Additional District Court) Fast Track Court No.4, Bhavani, Erode District, seeking enhancement of compensation.

2.The factum of the accident and the rash and negligent driving on the part of the first respondent/driver of the Maruthi Omini van bearing Registration No.TN-09/AL-2007, are not in dispute. As such, the findings of the Tribunal in this regard stand confirmed.

3.On the point of quantum, I have heard both sides and perused the materials available on record.



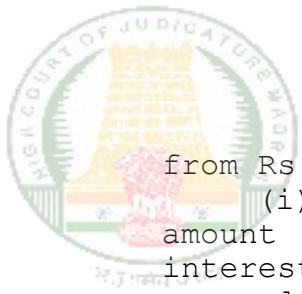
4. Taking into consideration the evidence of PW.2/Doctor, who had issued Ex.P14/Permanent disability certificate, the Tribunal has come to the conclusion that the claimant/appellant has suffered 40% disability. However, the Tribunal had deducted 50% of award amount, on the ground that the injuries were classified as simple injuries in the charge sheet filed by the Police before the Judicial Magistrate Court.

5. On going through the evidence of PW.2/Dr.A.K.Thambiraj and Ex.P14/Permanent disability certificate, it is clear that the claimant has suffered fracture on his left knee; injury over the jaw; lacerated wound over the right hand elbow; lacerated wound over the left hand; contusion over the chest and head and for the said injuries, he took treatment as an in-patient for one month in Maruthi Medical Centre Hospital, Erode. Due to the impact, the claimant's knee joint did not co-relate with each other and hence, he could not fold his knee above 65 degree and he is unable to sit or stand, and could not do his regular work, as before the accident.

6. The Tribunal, considering the nature of the injuries as submitted by the Doctor/PW.2 has rightly come to the conclusion that the claimant/appellant suffered permanent disability of 40% and fixed a sum of Rs.80,000/- under the said head. The Tribunal also awarded sums under other heads. In all, a sum of Rs.1,16,884/- was arrived at as compensation. However, it appears that taking note of the observations made in the charge sheet under Ex.P13, which described the injuries as simple in nature, the Tribunal has reduced the award amount by 50%, and awarded only a sum of Rs.58,442/- as lump-sum and directed the Insurance company to deposit the same.

7. This Court cannot subscribe to the view taken by the Tribunal. Reasoning given by the Tribunal for deduction of 50%, which is solely based on the Ex.P13/charge sheet is not acceptable. This Court can only rely on evidence of PW.2/Doctor and documentary evidence of Ex.P14/Permanent disability certificate, which speak volumes of the injuries sustained by him and treatment taken by him for over a period of one month as an in-patient in Maruthi Medical Centre Hospital, Erode. This Court finds no reason to disregard the said findings and nothing has been produced by the Insurance company disputing the said evidence. In such view of the matter the total amount as arrived at by the Tribunal, i.e., Rs.1,16,884/- without any deduction, whatsoever is liable to be paid as compensation to the claimant.

8. In the result, the Civil Miscellaneous Appeal is allowed by enhancing the compensation amount awarded by the Tribunal



from Rs.58,442/- to Rs.1,16,884/-.

(i) The Insurance company is directed to deposit the enhanced amount as determined in this appeal together with costs and interest rate of 7.5% per annum, after adjusting the amount, if any, already deposited, within a period of twelve weeks from the date of copy of this Judgment.

(iii) On such deposit being made, the claimant is permitted to withdraw the same with accrued interest, less the amount if any, already withdrawn.

(iv) The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation.

(v) There shall be no order as to costs.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

klt

To

1. The Motor Accident Claims Tribunal

(Additional District Judge) Fast Track Court No.4,
Bhavani, Erode District.

Copy to

The Section Officer,

V.R. Section, High Court, Madras - 104.

+1 CC to Mr.C.Kulanthaivel, Advocate sr 53357

+1 CC to Mr.J.Michael Visuvasam, Advocate sr 52635.

C.M.A.No.3726 of 2011

NRL (CO)

SP(04/11/2019)