

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.3754 of 2011

A.Sivamurugan

...Appellant/Petitioner

..Vs..

1.N.Balakrishnan

2.Reliance General Insurance Co. Ltd.,

No.6, Haddows Road,

Nungambakkam,

Chennai 600 006.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 02.11.2011 made in M.C.O.P.No.1210 of 2010 on the file of the IV Judge, Motor Accidents Claims Tribunal, (Court of Small Causes), Chennai.

For Appellant : Mr.M.Saravanan

For Respondents : Mr.S.Arunkumar for R2

R1 - exparte

JUDGMENT

This Civil Miscellaneous Appeal is filed by the claimant, challenging the Judgment and decree passed in M.C.O.P.No.1210 of 2010, dated 02.11.2011, on the file of the IV Judge, Motor Accidents Claims Tribunal, (Court of Small Causes), Chennai.

2. The brief case of the appellant/claimant is as follows:

On 24.02.2010, at about 09.30 am, the appellant/claimant along with another person was proceeding in a bike bearing Registration No. TN 05 V 8136 from Tambaram to Guduvanchery. While they were nearing Oorapakkam School bus stop, a Tata Motor Cab bearing Registration No. TN 21 H 1911, belonging to the first respondent, hit the said bike, as a result of which, the appellant/claimant sustained grievous injuries.

3. According to the appellant/claimant, the rash and negligent driving of the driver of the said Tata Motor Cab was

the cause for the accident and that, since, the said Tata Motor Cab was insured with the second respondent herein, both the first and second respondents herein are jointly and severally liable to pay compensation of Rs.6,00,000/- to him.

4. The first respondent herein remained absent before the Tribunal and therefore, he was set ex-parte. The learned IV Judge, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai, after analysing the evidence on record, awarded a compensation of Rs.3,05,200/- together with interest at the rate of 7.5% per annum and directed the second respondent herein to pay the compensation amount to the appellant/claimant.

5. Heard both sides and perused the materials available on record.

6. Mr. M. Saravanan, learned counsel appearing for the appellant/claimant submitted that the claimant was working as a Supervisor in charge of Annai Trust, Kolathur, Singaperumal Koil and was earning a sum of Rs.9,000/- per month, but the Tribunal has fixed the salary of the appellant/claimant only as Rs.4,500/- per month. He also drew the attention of this Court to the nature of the injuries sustained by the appellant/claimant, medical evidence of Dr. Saichandran (PW3) and also other assessment Certificates marked by the appellant/claimant.

7. Taking into consideration, the date of the accident i.e., 24.02.2010, the salary of the appellant/claimant is fixed at Rs.6,000/- per month. Since the appellant/claimant sustained fracture of 3rd, 4th and 5th metacarpal bone at wrist, he would not have been in a position to attend to work at least for six months. Therefore, the loss of earning is calculated for six months, which would come to Rs.36,000/- (Rs.6,000/- x 6) which is over and above Rs.9,000/- awarded by the Tribunal. The future medical expenses is fixed by this Court is Rs.35,000/- as against Rs.20,000/- awarded by the Tribunal. The permanent disability suffered by the appellant/claimant is fixed at 50% and considering the nature of injuries Rs.2,500/- per percentage is awarded. Hence, Rs.1,25,000/- is awarded towards permanent disability.

8. Accordingly, the award of the Tribunal in M.C.O.P.No.1210 of 2010 is enhanced as follows:

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1	Loss of Income	Rs.27,000/-	Rs.36,000/-
2	Pain and Suffering	Rs.45,000/-	Rs.45,000/-

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
3	Medical Expenses	Rs.78,200/-	Rs.78,200/-
4	Transport to Hospital	Rs.5,000/-	Rs.5,000/-
5	Extra Nourishment	Rs.10,000/-	Rs.10,000/-
6	Future medical expenses	Rs.20,000/-	Rs.35,000/-
7	Attender's Charges	Rs.20,000/-	Rs.20,000/-
8	Permanent disability	Rs.1,00,000/-	Rs.1,25,000/-
	Total	Rs.3,05,200/-	Rs.3,54,200/-

9. Thus the compensation awarded by the Tribunal is enhanced from Rs.3,05,200/- to Rs.3,54,200/-. The rate of interest awarded by the Tribunal at 7.5% p.a. stands confirmed.

10. In the result,

(i) The Civil Miscellaneous Appeal is allowed to the limited extent indicated above. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.3,05,200/- to Rs.3,54,200/- which shall carry interest at the rate of 7.5% per annum.

(iii) The appellant/claimant is directed to pay the court fee for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the receipt of court fee.

(iv) The second respondent - Reliance General Insurance Company Limited is directed to deposit the entire compensation of Rs.3,54,200/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1210 of 2010, dated 02.11.2011, on the file of the IV Judge, Motor Accidents Claims Tribunal, (Court of Small Causes), Chennai within a period of eight weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellant/claimant is permitted to withdraw the entire amount after following the due process of law.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
IV Judge, Court of Small Causes, Chennai
2. The Section Officer, VR Section,
High Court, Madras

+1cc to Mr.S.Arunkumar, Advocate SR.No.10381

+1cc to Mr.M.Saravanan, Advocate SR.No.10112

C.M.A.No.3754 of 2011

CP(CO)
GMY(11/04/2019)



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