

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 20.02.2019
CORAM:
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
CMA No.619 of 2011

Vairavan

... Appellant/Petitioner

Versus

1.The Managing Director,
TNSTC,
Villupuram.

2.Y.Nagaraj

3.The Divisional Manager,
National Insurance Company Ltd.,
Trichy.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 aggrieved by the award dated 13.08.2010 made in M.C.O.P.No.269 of 2009 on the file of the Motor Accidents Claims Tribunal/District Judge, Perambalur.

For Appellant : M/s.C.Sangamithirai

For Respondents : Mr.S.S.Swaminathan (for R1)

: Mrs.R.Sreevidhya (for R3)

JUDGMENT

सत्यमेव जयते

This Civil Miscellaneous Appeal has been filed by the claimant aggrieved against the award dated 13.08.2010 made in M.C.O.P.No.269 of 2009 on the file of the Motor Accidents Claims Tribunal/District Judge, Perambalur.

2.The brief facts, which are necessary to decide the appeal and the relevant particulars, are as follows:-

On 14.01.2009 at 7.35 am, the claimant was traveling as a passenger in the bus bearing Registration No.TN-21-N-0744 owned

by the first respondent from Chennai to Trichy. When the bus was nearing Murukkankudi Section Road, driver of the bus drove it in a rash and negligent manner and hit against the second respondent's Eicher Lorry bearing Registration No.AP-16-TX-5977, which was proceeding in the opposite direction and then the bus capsized in the left side of the road. The lorry was insured with the third respondent-Insurance Company. As a result of the accident, the claimant and the co-passengers sustained injuries. The claimant was a student at the time of accident and he has suffered fracture in the frontal bone, fracture in right lateral wall of the orbit, fracture in the sphenoid wing, right shoulder and humerus and multiple grievous injuries all over the body. Hence, the Claimant filed a claim petition in M.C.O.P.No.269 of 2009 before the Tribunal, claiming a sum of Rs.10,00,000/- as compensation.

3.The Tribunal awarded a sum of Rs.2,51,000/- as compensation. Not being satisfied with the quantum of compensation, the claimant/appellant herein has preferred this present appeal.

4.Before the Tribunal, the claimant examined himself as PW.1 besides Dr.Bhuvaneswari and Dr.Saravanan as PW.2 & PW.3 and eighteen documents Exs.P1 to P18 were marked. On the side of the respondents neither oral nor documentary evidence was adduced.

5.The learned counsel appearing for the appellant/claimant would contend that the Tribunal has awarded a meager amount of compensation without considering the deposition of PW.1/Doctor. According to PW.1, due to the accident, the claimant had lost his vision on his right eye and he could not see any object clearly, as before the accident. Therefore, the Doctor assessed his disability at 30%. Thereafter, the claimant took treatment at Tanjore Medical College Hospital as inpatient from 14.01.2009 to 02.02.2009 for a period of 20 days. According to the Doctor/PW.3, who examined the claimant and issued Ex.P17, the claimant suffered a region of frontal and fifth nerve is cut off, due to which he lost his sensation on his shoulder. Further, PW.3 stated that the claimant will have frequent head ache and vomiting and he could not lead his routine work. Therefore, the Doctor/PW.3 assessed his disability at 33%. Furthermore, the learned counsel for the appellant submitted that the Tribunal failed to consider the disability of the claimant and awarded only a sum of Rs.94,500/- under the head of "Permanent disability", which is meager. The amount awarded towards transportation is also meager and required to be enhanced.

6.The learned counsel for the first respondent/the Managing Director of TNSCTC, Villupuram would justify the award passed by the Tribunal as the one which is proportionate to the nature of injuries sustained by the claimant and prayed for dismissal of this appeal.

7.I have heard the learned counsel appearing on either side and perused the materials available on record.

8. On perusal of the award, I find that the Tribunal has awarded a sum of Rs.94,500/- for disability, which is meager. Taking note of the deposition of the two doctors with respect to the permanent disability suffered by the claimant and the statement that he could not do his day to day work, this Court feels that considering his disability at 33% + 30% = 63% (Rs.2000 X 63) a sum of Rs.1,26,000/- can be awarded. Considering the period of treatment taken by the claimant, the amount is enhanced towards Pain and Suffering & Transport charges at Rs.25,000/-. The Tribunal did not award any amount towards attendant charges and therefore, a sum of Rs.10,000/- and a sum of Rs.1,000/- towards damages are awarded to the claimant. Consequently, the total amount of compensation of Rs.2,51,500/- awarded by the Tribunal is hereby enhanced to Rs.3,07,000/-. The break-up details of the award amount as follows:-

Description	Amount awarded by Tribunal	Amount awarded by this Court
Permanent disability	Rs.94,500/-	Rs.1,26,000/-
Transportation	Rs.17,000/-	Rs.25,000/-
Pain and suffering	Rs.20,000/-	Rs.25,000/-
Extra nourishment	Rs.20,000/-	Rs.20,000/-
Damages	-	Rs.1,000/-
Loss of future prospects	Rs.1,00,000/-	Rs.1,00,000/-
Attendant charges	-	Rs.10,000/-
Total	Rs.2,51,500/-	Rs.3,07,000/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation amount of Rs.2,51,500/- awarded by the Tribunal is hereby enhanced to Rs.3,07,000/-, along with interest at the rate of 7.5% per annum, from the date of petition till the date of realisation. The first respondent is liable to pay the compensation on behalf of the second

respondent/driver the compensation amount of Rs.3,07,000/- to the appellant/claimant, together with interest of 7.5%, within a period of eight weeks from the date of receipt of copy of this Judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the entire amount, as determined in this appeal, with accrued interest. The appellant is directed to pay additional Court fee for the enhanced amount. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

klt

To

1. The Motor Accidents Claims
Tribunal/District Judge, Perambalur.
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1cc to M/s.S.S.Swaminathan, Advocate sr.16155
+1cc to M/s.C.Sangamithirai, Advocate sr.15362

CMA No.619 of 2011

nr 14/06/2019

सत्यमेव जयते

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