

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.95 of 2011

S.Arumugham

.. Appellant

Vs.

1.S.Muthukrishnan
(Remained ex-parte before the Trial Court)

2.United India Insurance Company Limited,
No.38, Anna Salai, Chennai - 600 002.

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 13.10.2009 made in M.A.C.T.O.P.No.1193 of 2003, on the file of the VI Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Mr.K.Ayyadurai
for Mr.M.Muthurajan

For R1 : Exparte before the Tribunal
For R2 : Mr.D.Bhaskaran

सत्यमेव जयते

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 13.10.2009 made in M.A.C.T.O.P.No.1193 of 2003, on the file of the VI Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

2. The injured claimant is the appellant herein.

3. On 26.02.2003 at 11.00 hours, the appellant/claimant was riding TVS 50 XL Mopd No.TN 07 L 5776 from Karapakkam to Kandan Chavadi along Okkiyampettao over Bridge, old Mahabalipuram road. While, he was so proceeding along Okkiyampettai Bridge, the Car No. TN 10 C 7270 which was driven in a rash, speed and negligent manner came from the

opposite direction and dashed against the TVS 50 Moped, in which the appellant/claimant sustained serious injuries. Exhibit P1 is F.I.R. The oral evidence of P.W.1 and the details of F.I.R proves the negligence on the part of the driver of the car bearing Registration No.TN 10 C 7270. No contra evidence is let in on the side of the respondents to disprove the contentions of the appellant/claimant.

4.The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.2,13,625/- with interest at 9.5% per annum.

5. Heard both sides.

6. After hearing both sides and taking note of the fact that P.W.2 Doctor had assessed the disability at the rate of 50% partial and permanent disability, the Tribunal has fixed 45% for partial permanent disability, considering the age of the appellant as 27 years and awarded, a sum of Rs.90,000/- towards "permanent disability". Taking into consideration the nature of the disability, a sum of Rs.90,000/- awarded by the Tribunal is enhanced to Rs.1,00,000/- towards "permanent disability".

7. Considering the fact that the appellant was suffered fracture of right femur and was treated as in-patient for 11 days and had also undergone surgery on two occasions, the Tribunal has awarded a sum of Rs.20,000/- towards "pain and suffering". Considering the nature of injury sustained by the appellant, this Court is inclined to award a sum of Rs.30,000/-.

8. Considering the nature of the injury sustained by the appellant/claimant and the period of treatment taken as in-patient, the Tribunal has come to the conclusion that some attenders would have attended him during his treatment period and awarded a sum of Rs.3,000/- towards "attendants charges. This Court is hereby inclined to enhance the same as Rs.10,000/- towards "attendants charges" considering the nature of injury. Therefore, a sum of Rs.10,000/- is hereby awarded towards "attendants charges".

9. It is seen that Exhibit P2 Discharge summary issued by Swaram Nursing Home that the appellant/claimant has suffered fracture of shaft of right femur and was treated as in-patient from 26.02.2003 to 04.03.2003, but no compensation is awarded under the head "future medical expenses" by the Tribunal. As he could have spent future medical expenses, this Court is hereby awarded a sum of Rs.15,000/- towards "future medical expenses".

10. With regard to heads 'loss of earning', 'transport expenses', 'extra nourishment', 'dress materials damages' and 'medical expenses', no interference is called for as they are seem to be reasonable. Hence, total compensation is hereby enhanced to Rs.2,55,625/- from Rs.2,13,625/- as awarded by the Motor Accidents Tribunal. The amount awarded is hereby tabulated:

Heads	Awarded by the Trial Court	Modified by this Court
Loss of earning	Rs. 45,000/-	Rs. 45,000/-
Transport charges	Rs. 5,000/-	Rs. 5,000/-
Extra Nourishment	Rs. 5,000/-	Rs. 5,000/-
Dress materials damages	Rs. 1,000/-	Rs. 1,000/-
Medical expenses	Rs. 44,624.03	Rs. 44,624.03
Future medical expenses	--	Rs. 15,000/-
Attendants charges	Rs. 3,000/-	Rs. 10,000/-
Pain and Suffering	Rs. 20,000/-	Rs. 30,000/-
Permanent disability	Rs. 90,000/-	Rs. 1,00,000/-
Total	Rs. 2,13,625/-	Rs. 2,55,625/-

11. The learned counsel for the second respondent- Insurance Company stated that the entire award amount has already been deposited and the second respondent- Insurance Company shall deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this judgment. Interest at the rate of 7.5% with regard to the enhancement of amounts shall accordingly be calculated for payment.

12. With the above enhancement in the amount awarded by the Tribunal, this Civil Miscellaneous Appeal is allowed. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

-s/d-

Assistant Registrar(CS)

True Copy

Sub-Assistant Registrar

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To
The VI Small Causes Court
(Motor Accidents Claims Tribunal), Chennai.

2. The Section Officer,
VR Section,
High Court, Madras

+lcc to Mr.Kalai Arasan, Advocate SR.No. 14408
+lcc to Mr.D.Bhaskaran , Advocate SR.No. 14500

A.SK(14/05/2019)

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