



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.735 of 2015

Velusamy

.. Appellant/Claimant

Vs.

1.Palanisamy

2.The Branch Manager, National Insurance Co. Ltd.,
No.63, West Prathakshanam Road, Karur.

Having branch at Divisional Office,
National Insurance Co. Ltd, 74-A,

Paramathi Road, Namakkal.

.. Respondents/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.06.2012 made in M.C.O.P.No.50 of 2010 on the file of the Motor Accident Claims Tribunal, Sub Court, Namakkal.

For Appellant : Ms.T.Gayathri
for Mr.C.Kulanthaivel

For R1 : No appearance

For R2 : Mrs.N.B.Surekha

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 27.06.2012 made in M.C.O.P.No.50 of 2010 on the file of the Motor Accident Claims Tribunal, Sub Court, Namakkal.

2.The appellant is claimant in M.C.O.P.No.50 of 2010 on the file of the Motor Accident Claims Tribunal, Sub Court, Namakkal. He filed the said claim petition claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 02.04.2009. The Tribunal,



considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the tractor belonging to the 1st respondent and directed the 2nd respondent/Insurance Company to pay a sum of Rs.60,000/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

3.The learned counsel appearing for the appellant/claimant contended that the Tribunal having held that the appellant has spent a sum of Rs.50,000/- towards medical expenses and accepted that there is a fracture in the right hand, surgery was conducted as per Ex.P2/wound certificate and Ex.P3/discharge summary, erred in holding that the appellant sustained only simple injury. The appellant has taken treatment in the hospital as in-patient for 15 days and underwent surgery, plates were implanted and screws were fixed. The appellant was aged 53 years at the time of the accident, he was an agriculturist and due to the fracture in the hand, he could not continue his avocation. The amounts awarded by the Tribunal under the heads of pain & suffering, transportation, extra nourishment and loss of amenities are meagre. The Tribunal has not awarded any amount towards attendant charges and future medical expenses and prayed for enhancement of compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellant failed to prove the nature of injuries and fracture as claimed by him. He did not examine the Doctor to prove the disability. The appellant has not suffered any disability. In view of the same, the Tribunal has awarded a lump sum compensation of Rs.10,000/- in addition to the medical expenses, which is not meagre and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant as well as 2nd respondent/Insurance Company and perused all the materials available on record.

6.From the materials available on record, it is seen that the appellant has marked wound certificate and discharge summary as Ex.P2 & Ex.P3 respectively. The Tribunal has held that as per Ex.P2 & Ex.P3, the appellant suffered fracture, underwent surgery, plates were implanted and screws were fixed. The appellant has taken treatment in the hospital as in-patient for 15 days. The Tribunal considering Ex.P4 medical bills to the tune of Rs.50,539/-, awarded a sum of Rs.50,000/- towards medical bills. The Tribunal held that the appellant suffered only simple injury on the ground that the appellant has not examined the Doctor to prove the disability suffered by him. The



said reason is erroneous. Considering the fact that the appellant underwent surgery, plates were implanted and screws were fixed, the appellant is entitled to a sum of Rs.25,000/- for the injuries suffered by him in the accident. The lump sum compensation of Rs.10,000/- granted by the Tribunal towards pain & suffering, transportation, extra nourishment and loss of amenities are meagre. The appellant is entitled to compensation under those heads separately. The lump sum compensation of Rs.10,000/- awarded by the Tribunal under those heads are set aside. A sum of Rs.10,000/- each is granted towards pain & suffering, transportation, extra nourishment and loss of amenities. The Tribunal has not awarded any amount towards damage to clothes and attendant charges and this Court awards a sum of Rs.1,000/- and Rs.10,000/- under those heads respectively. The amount awarded by the Tribunal towards medical bills is confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Medical expenses	50,000	50,000	Confirmed
2.	Pain&suffering, transportation, extra nourishment and loss of amenities	10,000	10,000 10,000 10,000 10,000	Granted Granted Granted Granted
3.	Attendant charges	-	10,000	Granted
4.	Damage to clothes	-	1,000	Granted
5.	Injuries	-	25,000	Granted
	Total	Rs.60,000/-	Rs.1,26,000/-	Enhanced by Rs.66,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.60,000/- is hereby enhanced to Rs.1,26,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent/Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited if any,



within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Namakkal.

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

+1cc to Mrs.N.B.Surekha, Advocate SR.No.34965

+1cc to Mr.C.Kulanthaivel, Advocate SR.No.34937

C.M.A.No.735 of 2015

VSN II (CO)
GMY (10/10/2019)