

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.866 of 2015

P.Sivakumar

.. Appellant/Petitioner

Vs.

1. V.Sambandamurthy

2. Royal Sundaram Alliance Insurance Company Ltd.,
No.21, Pattulos Road,
Chennai - 600 002.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 17.09.2014 made in MCOP.No.5019 of 2011, on the file of the Motor Accidents Claims Tribunal, III Judge, Small Causes Court, Chennai.

For Appellant : Mr.A.Shanmugaraj

For R2 : Mr.M.Krishnamoorthy

J U D G M E N T

According to the appellant/claimant, on 19.12.2010 at about 09.30am, he was riding the motorcycle bearing registration No.TN 22 AL 1801 along Adyar Bridge. At that time, a Car bearing registration No.TN 09 AE 2221 belonging to the first respondent and insured with the second respondent insurance company, came in a rash and negligent manner and hit the motorcycle from behind. Due to the said impact, the appellant sustained grievous injuries. Stating that the accident had occurred only due to the rash and negligent driving of the driver of the Car, he filed a claim petition, claiming compensation of Rs.15,00,000/-. The Tribunal, after considering the oral and documentary evidence available on record, awarded a total compensation of Rs.3,32,246/- with interest at 7.5% per annum from the date of petition. Feeling aggrieved and being dissatisfied with the quantum so awarded, the appellant/claimant has preferred this appeal seeking enhancement of the same.

2.The learned counsel for the appellant/claimant submitted that the Tribunal has awarded a lesser sum of Rs.20,000/- and Rs.1,10,000/- towards loss of income and disability respectively; the compensation awarded under other heads are also very meagre; and hence, the compensation awarded by the Tribunal has to be enhanced to some extent.

3.Per contra, the learned counsel for the second respondent insurance company submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

4.Heard the learned counsel on either side and perused the materials available on record.

5.This is the claimant's appeal seeking enhancement of the compensation awarded by the Tribunal and hence, there is no requirement for this Court to go into the question on negligence and the liability of the second respondent insurance company to pay compensation.

6.The appellant/claimant himself examined as P.W.1, who deposed that at the time of accident, he was 37 years old and was earning Rs.13,611/- per month as H.R. Assistant in Professional Courier. P.W.2/doctor in his evidence, has narrated about the nature of the injuries suffered by the appellant/claimant and assessed his permanent disability at 60% and issued Ex.P15 disability certificate. As per Ex.P16-X-ray, the appellant/claimant sustained tibial plate fracture with tibial tuberosity avulsion. The medical records further disclosed that the claimant initially took treatment at St.Isabel Hospital as inpatient from 19.12.2010 to 06.01.2011 and thereafter, from 30.05.2011 to 01.06.2011. Exs.P8 to P10 are medical bills. Placing reliance on those oral and documentary evidence, the Tribunal has awarded Rs.15,000/- towards Transportation, Rs.15,000/- towards Extra nourishment, Rs.500/- towards damage to clothes, Rs.81,746/- towards medical expanses, Rs.10,000/- towards Attender charges, Rs.20,000/- towards loss of amenities, Rs.50,000/- towards pain and suffering and Rs.1,10,000/- towards 55% disability at Rs.2,000/- per percentage, which in the opinion of this Court, are fair, just and reasonable and the same cannot be considered as excessive or exorbitant at any stretch of imagination and hence, the same are hereby confirmed.

7.However, the Tribunal has awarded only a sum of Rs.20,000/- towards loss of income, which appears to be on the lower side considering the period of treatment taken by the

appellant/claimant and hence, the same is hereby enhanced to Rs.40,000/-. Further, the award of Rs.10,000/- towards Physiotherapy charges is hereby enhanced to Rs.20,000/-. Thus, the compensation awarded by the Tribunal is enhanced from Rs.3,32,246/- to Rs.3,62,246/-, the break-up details of which are as follows:

Head	Compensation awarded by the Tribunal (Rs.)	Compensation enhanced by this Court (Rs.)
Loss of Income	20,000/-	40,000/-
Transportation	15,000/-	15,000/-
Extra nourishment	15,000/-	15,000/-
Damage to clothes	500/-	500/-
Medical expenses	81,746/-	81,746/-
Physiotherapy charges	10,000/-	20,000/-
Attender charges	10,000/-	10,000/-
Loss of amenities	20,000/-	20,000/-
Pain and suffering	50,000/-	50,000/-
Disability	1,10,000/-	1,10,000/-
Total	3,32,246/-	3,62,246/-

Since there is no delay in filing the appeal, the appellant/claimant is entitled to receive the enhanced sum of Rs.30,000/- with interest at 7.5%pa from the date of claim petition.

8.In fine, this appeal is partly allowed. No costs. The second respondent/Insurance Company is directed to deposit the entire compensation amount, with interest and costs, after deducting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the appellant/claimant, through RTGS within a period of one week thereafter.

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-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
III Judge, Small Causes Court,
Chennai.

Copy to

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

+1 CC to Mr.A.Shanmugaraj, Advocate sr 91864.

+1 CC to Mr.M.Krishnamoorthy, Advocate sr 91190.

C.M.A.No.866 of 2015

BS (CO)
SP (15/12/2020)



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