

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.441 of 2013

Murugaraj

... Appellant/Claimant

Vs.

1. Srinivasan

2. Dhanajayan

3. Shriram General Insurance Company Limited
Thiruchirapalli, Rep by its Branch Manager
No:421013-C135A, 5th Cross
Thillainagar
Thiruchirapalli-620018.

... Respondents

(R1 & R2 set exparte before the Lower Court
Hence notice to their may be Dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Award of Motor Accidents Claims Tribunal (District Court), Karaikal dated 03.09.2012 made in MACTOP.No.96/2011.

For Appellant : Ms.Lavaniya for
Mr.S.Sounthar

For Respondents : S.Dhakshnamoorthy
for R3.
R1 & R2 - Exparte

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant seeking enhancement of compensation granted by the Tribunal in the award dated 03.09.2012 made in M.C.O.P.No.96 of 2011 on the file of the Motor Accident Claims Tribunal, District Court, Karaikal.

2. It is the case of the appellant that on 08.03.2011, at about 14.00 hours, when the appellant was proceeding in his motorcycle towards south at Bharathiyar Main road, near Bus stop Kottucherry, Karaikal, the first respondent drove the lorry bearing Reg.No.TN-51-A-8580 in a rash and negligent manner on the same road and hit on the appellant's vehicle and made the appellant to fall on the road along with the motorcycle. The motorcycle got damaged and the appellant has sustained multiple fractures at left humerus shaft, lat condyle of femur right

tibia, right patella. Hence, he filed a claim petition before the Tribunal, claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by him.

3. Before the Tribunal, on the side of the appellant, PW1 & PW2 were examined and Exs.P1 to P7 were marked. There is no oral and documentary evidence on the side of the respondents.

4. After analyzing the oral and documentary evidences and considering the pleadings made by both the parties, the Tribunal has come to the conclusion that the accident had taken place due to the rash and negligent driving of the driver of the lorry and awarded a sum of Rs.99,170/- (Rupees ninety nine thousand and one hundred and seventy only) to the appellant jointly and severally with interest at the rate of 7.5% per annum as compensation to the appellant.

5. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal.

6. The learned counsel for the appellant prayed for awarding compensation under the heads viz., loss of earning power and attender charges. He also prayed for enhancing the compensation awarded under other heads.

7. Per contra, the learned counsel appearing for the third respondent submitted that the Tribunal has awarded the compensation after considering the oral and documentary evidences in a proper perspective. Further, the appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

8. Heard the learned counsel for the appellant as well as the third respondent and also perused the materials available on record before this Court.

9. From the materials available on record, it is seen that the appellant was working as a driver and due to the injuries sustained in the accident, he is unable to make use of his leg for driving. Hence, the amount of Rs.25,000/- awarded towards partial disability is enhanced to Rs.70,000/- and the amount of Rs.3,000/- awarded towards loss of income is enhanced to Rs.15,000/-. However, the amount of Rs.30,000/- awarded towards pain and sufferings is higher and the same is reduced to Rs.25,000/-. The amount awarded towards medical expenses, extra nourishment and transportation costs are sufficient and therefore no interference is needed. The rate of interest awarded at 7.5 % is also 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)
1	Loss of income	3,000	15,000
2	Transportation	1,300	1,300

3	Extra nourishment	5,000	5,000
4	Medical Expenses	34,870	34,870
5	For Partial disability	25,000	70,000
6	Pain and sufferings	30,000	25,000
	Total	Rs.99,170/-	Rs.1,51,170/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.99,170/- is hereby enhanced to Rs.1,51,170/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The third respondent / Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited if any, to the credit of MCOP.No.96 of 2011 on the file of the Motor Accidents Claims Tribunal, District Court, Karaikal within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the appellant is permitted to withdraw the modified award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
District Judge,
Karaikal.

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

+1cc to Mr.S.Sounthar, Advocate SR.No.10100

+1cc to Mr.S.Dhakshnamoorthy, Advocate SR.No.101080

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