

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.921 of 2013

Parthasarathi

...Appellant/Petitioner

vs.

1.V.Ramesh

2.Cholamandalam MS General
Insurance Co. Ltd.,
NSC Bose road,
Chennai -1.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 25.08.2012 passed in MCOP.No.2023 of 2011 on the file of the Motor Accident Claims Tribunal / IV Judge, Court of Small Causes, Chennai.

For Appellant : Mrs.M.Malar

For Respondents : Mr.N.Vijayaraghavan for R2
No appearance for R1

J U D G M E N T

The appellant is the claimant in MCOP.No.2023 of 2011 on the file of the Motor Accident Claims Tribunal / IV Judge, Court of Small Causes, Chennai. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.6,00,000/- for the injuries sustained by him in a road accident on 02.01.2011.

2. The case of the claimant in nutshell is as follows:

On 02.01.2011, the claimant was riding his motorcycle bearing Registration No. TN 21 G 0392 along GST road, Guduvancheri fish market junction and at about 08.00 hours, a speeding Tavera Car bearing Registration No. TN 04 AA 7256 belonging to the first respondent and insured with the second respondent hit the motorcycle, as a result of which, he sustained grievous injuries all over his body. According to the

claimant, the rash and negligent driving of the driver of the car bearing Registration No. TN 04 AA 7256 was the cause of the accident and that since the said car was insured with the Cholamandalam MS General Insurance Company, the owner and the insurer are jointly and severally liable to pay compensation.

3. The owner of the car remained absent before the Tribunal and therefore he was set exparte. The second respondent / Cholamandalam MS General Insurance Company contested the claim petition. The learned Motor Accident Claims Tribunal / IV Judge, Court of Small Causes, Chennai after analysing the evidence on record, awarded a compensation of Rs.1,22,000/- together with interest at the rate of 7.5% per annum to the claimant. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard Mrs.M.Malar, learned counsel appearing for the appellant / claimant and Mr.N.Vijayaraghavan, learned counsel appearing for the second respondent. No appearance on behalf of the first respondent.

5. A perusal of the records shows that the claimant was admitted as an inpatient in SRM Medical College Hospital on 02.01.2011 and discharged on 04.01.2011. It is seen from the discharge summary (Ex.P4) that he had suffered fracture of bones on his right hip and lower abdomen. Dr.Saichandran (PW2) had assessed the partial permanent disability as 40% and the Tribunal reduced the same to 25% without assigning any valid reason. Considering the nature of injuries sustained by the claimant, the partial permanent disability is fixed as 40%, as assessed by Dr.Saichandran (PW2). Since there is no functional disability, applying multiplier method is not warranted as far as the present case is concerned. Since the accident took place in the year 2011, awarding a sum of Rs.3,000/- per percentage of disability, in the opinion of this Court, would meet the ends of justice. The award passed by this Court under various heads is extracted hereunder:

S.No .	Head	Amount granted by this Court
1.	Partial permanent disability	Rs.1,20,000/-
2.	Pain and sufferings	Rs.10,000/-
3.	Transportation	Rs.5,000/-
4.	Extra nourishment	Rs.5,000/-
5.	Attender's charges	Rs.2,000/-

S.No .	Head	Amount granted by this Court
6.	Damage to clothes	Rs.500/-
7.	Medical bills	Rs.2,400/-
8.	Loss of income for 55 days	Rs.34,600/- (Rs.18,875 per month)
Total		Rs.1,79,500/-

6. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.1,22,000/- to Rs.1,79,500/-.

(iii) The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

(iv) The second respondent / Cholamandalam MS General Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.1,79,500/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.2023 of 2011 on the file of the Motor Accident Claims Tribunal / IV Judge, Court of Small Causes, Chennai within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
The IV Judge,
Court of Small Causes,
Chennai.

+1cc to M/s.M.Malar, Advocate Sr.89710

+1cc to M/s.M.B.Gopalan Associates, Advocate Sr.89924

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sj[col]
srg 27/07/2020