

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S. RAMATHILAGAM

C.M.P.No.12361 of 2019
in
C.M.A.Sr.No.40070 of 2019

Ravichandran

... Appellant/ Petitioner

Vs.

1.K.Karuppannan

2.United India Insurance Co.Ltd,
Rasipuram. ... Respondents/ Respondents

Prayer: This Civil Miscellaneous Petition is filed under Section 173(1) of Motor Vehicles Act, 1988, to condone the delay of 2754 days in filing the appeal.

C.M.A.Sr.No.40070 of 2019 is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.03.2011 made in M.C.O.P.No.192 of 2009 on the file of the Motor Accidents Claims Tribunal/Sub Judge, Namakkal.

For Appellant : Mr.C.Thangaraju

J U D G M E N T

The Civil Miscellaneous Petition has been filed by the petitioner to condone the delay of 2754 days in preferring appeal against the order dated 31.03.2011 which was passed in M.C.O.P.No.192 of 2009.

2.The learned Counsel for the petitioner contended that the claim application was filed by the petitioner claiming a compensation of Rs.7,00,000/- for the injuries sustained by him in the accident, that occurred on 21.08.2008. The Tribunal as awarded a sum of Rs.94,000/- along with interest directing the second respondent Insurance company to pay the said sum. The petitioner contended that the sum awarded by the Tribunal under various heads are not just a reasonable

compensation and hence he has forced to preferred the appeal. The reasons stated by the petitioner that the appeal has under the pain and suffering. But he cannot continues his routine work and he hence thus inconvenience against him. The huge delay in preferring the appeal.

3.Hence he sought for condone the delay on 2754 days in filing the appeal. The grievance of the petitioner is that the Tribunal has not awarded just a compensation inspite of evidence and documents placed before the same. Regarding the nature of injuries which are very much provided and that he has sustained injuries in the forehead and also including bone fracture. Hence the assessment made by the doctor at 35% has not been properly taken by the Tribunal. Further, the injured person is also at age of 35 years and he was a Rice Merchant and his income was also Rs.15,000/-. He spent huge amount by way of medical expenses and he cannot continue his business and the future prospects also nor properly considered and hence he prayed for enhancement of the award made by the Tribunal.

4.On a perusal of the award made by the Tribunal based, it is seen that the Tribunal has fixed the negligence on the driver of the first respondent vehicle by observing the nature of the injuries spoken by the appellant by way of his evidence. It is also seen that immediately after the accident, he was given first aid at MM Hospital, Namakkal and further treated in Vinayaga Mission Hospital, Salem for the period from 22.08.2008 to 28.08.2008 and the injuries are also stated has fracture in the fatal area. He has stated that he spent huge medical expenses at Rs.1,50,000/- P.W.2 examined before the Tribunal with regard to nature of injuries sustained by the injured claimants, P.W.2 also assessed the disability at 32%. The Tribunal considering all these aspects has taken the disability as assessed by P.W.2 and awarded a reasonable sum. Though, it is claimed by the petitioner injured that he had incurred medical expenses to the tune of Rs.1,50,000/-, he has not furnished any documents to prove the same. But in the absence of relevant documents, the Tribunal has awarded has a sum of Rs.31,000/- which is very much reasonable, by considering the fact that the petitioner was under treatment from 22.08.2008 to 28.08.2008. The Tribunal has also awarded a sum of Rs.10,000/- for pain and suffering and loss of amenities at Rs.10,000/- for transportation of Rs.5,000/-.

5.Since the Tribunal has considered all these aspects and awarded the compensation under various heads this Court is of the opinion that the appeal preferred by the claimant does not

require any enhancement. Further, the reason stated by the learned Counsel for the petitioner there is also a delay of 2754 days for which the petitioner assess that he was under continuous pain and suffering in also not supported by any relevant documents for the huge delay of 2754 days delay for the petitioners. Further, it is seen that the entire compensation awarded by the Tribunal has been the said amount was also withdrawn as well as that said amount was deposited by the Insurance Company and the same was also withdrawn by the petitioner.

6.In view of the above, the Civil Miscellaneous Petition is dismissed and consequently, the Civil Miscellaneous Appeal is rejected at the SR stage itself.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Namakkal.

C.M.P.No.12361 of 2019
in

C.M.A.Sr.No.40070 of 2019

ssd

A.SK(30/10/2019)

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