

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.2515 of 2019

Perumal @ Pandiyan

.. Appellant/Petitioner

Vs.

1.Padmavathi

2.United India Insurance Company., Ltd.,

No.146-N, Kumar Complex,
Annasalai, Tiruchengode,
Namakkal.

.. Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.06.2018 made in M.C.O.P.No.91 of 2013 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge Court, Tiruchengode.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mr.J.Chandran for R2
R1 - Exparte before Tribunal

JUDGMENT

This Civil Miscellaneous Appeal is filed against the award dated 14.06.2018 made in M.C.O.P.No.91 of 2013 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge Court, Tiruchengode.

2.The appellant is the petitioner in M.C.O.P.No.91 of 2013 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge Court, Tiruchengode. The appellant has filed the claim petition for claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 26.03.2013.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver/first respondent of the lorry, the second respondent/Insurance company being the insurer of the first respondent's vehicle, directed the first and

second Respondent to pay a sum of Rs.1,16,470/- (Rupees One Lakh Sixteen Thousand Four Hundred and Seventy Only) as compensation to the appellant/claimant. Aggrieved against the said award dated 14.06.2018 made in M.C.O.P.No.91 of 2013, the appellant has come out with the present appeal for enhancement.

4. The contention of the learned counsel appearing for the appellant is that the Tribunal erred in awarding amount as compensation not in consonance with the facts and circumstances of the case and principles for awards in similar cases. The medical board examined the petitioner and mechanically given the disability certificate only 5% which is very meagre. The petitioner got permanent disability and the Tribunal has awarded very meagre amount under the heads of pain and suffering and extra nourishment and has not awarded any amount under the various heads of attendance charges, transport expenses to the hospital and loss of amenities.

5. Heard both sides and perused the materials available on record.

6. From the materials on record it is seen that the petitioner has produced disability certificate marked as Ex.P8 show 5% disability only. Hence, considering the age of the petitioner, a sum of Rs.15,000/- awarded at the rate of Rs.3,000/- per percentage is proper. The medical bill is produced by the petitioner as Ex.P5 reveals the expenses incurred by the petitioner of Rs.46,470/- which is not specifically objected by the respondent and the same is correlated with the doctor's evidence and the contemporary period of treatment, hence the same is confirmed. Considering the period of treatment undergone as inpatient and the surgery underwent by the petitioner, and also the fracture injured a sum of Rs.25,000/- is awarded as compensation under the head of pain and suffering and mental agony which is proper and reasonable. It is seen that no bills were produced by the petitioner towards transport expenses and hence no amount was granted as compensation under the said head and the sum of Rs.10,000/- awarded under the head of extra nourishment and the same is also confirmed. Considering the treatment period and fracture it can be presumed that the petitioner could have been prevented from job for a period of two months, hence a sum of Rs.20,000/- is awarded as loss of income is very much proper and the same also confirmed. The amounts awarded by the Tribunal under different heads as compensation to the appellant are reasonable. I do not find any error in the reasoning and the compensation awarded by the Tribunal.

7. In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.1,16,470/- awarded as compensation by the Tribunal to the appellant herein, along with interest and costs is hereby confirmed.

8. The first and second respondent/United India Insurance Company Limited is directed to deposit the entire compensation of Rs.1,16,470/- (if not 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 M.C.O.P.No.91 of 2013, dated 14.06.2018, on the file of the Motor Accidents Claims Tribunal (Subordinate Judge) at Tiruchengode within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the petitioner is permitted to withdraw the entire amount awarded by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Tiruchengode.

+1cc to Mr.C.Paraneedharan, Advocate SR.No.51844
+1cc to Mr.J.Chandran, Advocate Sr.No.51257

AKM/02.03.2020 /3P-4C/

सत्यमेव जयते

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