



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.247 of 2018

Pannerselvam

.. Appellant/Petitioner

Vs.

1.P.Kumar

(Notice to R1 may be dispensed
with for the set ex-parte before the Tribunal)

2.National Insurance Co., Ltd.,
No.73, TVS Street,
Erode - 638 001.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.10.2017 made in M.C.O.P.No.115 of 2008 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Tiruchengode.

For Appellant : Mr.T.S.Arthanareeswaran
For R2 : Mr.J.Chandran

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 12.10.2017 made in M.C.O.P.No.115 of 2008 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode.

2.By consent of both parties, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant is claimant in M.C.O.P.No.115 of 2008 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode. He filed the said claim petition claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 03.12.2001. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the Yamaha crux motorcycle belonging to the 1st respondent and directed both the 1st respondent as well as 2nd respondent-Insurance Company to pay a sum of Rs.86,759/- as compensation to the appellant, jointly and severally. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

4.The learned counsel appearing for the appellant contended



5.Per Contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the accident is of the year 2001. The appellant is entitled to only a sum of Rs.1,000/- per percentage towards disability. The Tribunal has erroneously granted Rs.3,000/- for 20% disability. In view of the same, the appellant is not entitled for any enhancement and prayed for dismissal of the appeal.

6.Heard the learned counsel appearing for the appellant as well as 2nd respondent/Insurance Company and perused all the materials available on record.

7.From the materials available on record, it is seen that P.W.2-Doctor has assessed the disability of the appellant as 30%. The Tribunal has reduced the same to 20% on the ground that the appellant has sustained two injuries, one is grievous in nature and another one is simple. The accident is of the year 2001 and the appellant is entitled to only Rs.1,000/- per percentage. The Tribunal has awarded a sum of Rs.60,000/- (Rs.3,000/- X 20%) towards disability by awarding a sum of Rs.3,000/- per percentage, which is excessive. In view of the same, the appellant is not entitled for any enhancement. The compensation awarded by the Tribunal under other heads are just and reasonable and the same is hereby confirmed.

5.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.86,759/- awarded by the Tribunal as compensation to the 1st appellant/1st claimant, along with interest and costs is confirmed. Both the 1st respondent as well as 2nd respondent-Insurance Company are directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.115 of 2008. On such deposit, the 1st appellant/ 1st claimant is permitted to withdraw the award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

mtl

To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruchengode.

<https://hcservices.ecourts.gov.in/hcservices/>

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

+lcc to Mr.J.Chandran, Advocate, S.R.No. 21015

+lcc to Mr.C.Paraneedharan, Advocate, S.R.No. 20862