



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

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CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3430 of 2019

P.Arulraj

... Appellant/Petitioner

Vs.

1. Vijayakumar

(R1 was set exparte before the Tribunal)

2. National Insurance Co. Ltd.,

No.751, Mount Road,

Chennai - 600 002.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 20.04.2018 made in MCOP.No.2193 of 2014, on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.1, Court of Small Causes, Chennai - 104.

For Appellant : Mr.C.Richard Suresh Kumar

For R2 : Mr.D.Baskaran

J U D G M E N T

Being dissatisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present Civil Miscellaneous Appeal, seeking enhancement of the same.

2.The case in brief is as follows:

On the fateful day, ie. on 26.03.2014, at about 21.45 hours, the appellant was going as a pillion rider in the motorcycle bearing Registration No.TN 20 BZ 8158 belonging to the first respondent and insured with the second respondent insurance company. When the vehicle was plying near Mani Theatre from Minjur to Thiruvottiyur, the rider of the motorcycle rode the vehicle in a rash and negligent manner and dashed against an unknown vehicle. Due to the said impact, the appellant sustained grievous injuries. Stating that the accident had occurred only due to the rash and negligent riding of the rider of the



motorcycle, he filed a claim petition, claiming compensation of Rs.8,00,000/-. The Tribunal, after considering the oral and documentary evidence available on record, awarded a total compensation of Rs.2,54,800/- with interest at 7.5% per annum from the date of petition. Challenging the same, the appellant/claimant has preferred this appeal.

3.The learned counsel for the appellant/claimant submitted that the Tribunal has awarded a lesser sum of Rs.90,000/- towards disability; the compensation awarded under other heads are also very meagre; and hence, the compensation awarded by the Tribunal has to be enhanced to some extent.

4.Per contra, the learned counsel for the second respondent insurance company submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.This is the claimant's appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, this Court would like to deal with the aspect of quantum alone.

7.The appellant/claimant himself examined as P.W.1, who deposed that in the accident, he sustained comminuted fracture both bones in right leg, besides receiving multiple injuries in all over the body; he was 49 years old and was earning Rs.25,000/- per month by working as a Fabrication Contract Labour; and he initially took treatment at Sugam Hospital and Government Stanley Hospital as inpatient from 27.03.2014 to 30.03.2014 and thereafter, he has taken treatment as inpatient in M.N.Orthopaedic Hospital from 31.03.2014 to 04.04.2014. The doctor, who treated the appellant/claimant, was examined as P.W.2. According to him, the appellant/claimant sustained 45% permanent disability; Ex.P7 is the disability certificate; and Exs.P2, P3, P6 and P8 are X-Rays. However, the Tribunal has taken the permanent disability only at 30%, which seems to be unfair and unreasonable and hence, the same is hereby enhanced to 45% as assessed by P.W.2/doctor. Accordingly, the compensation awarded by the Tribunal towards disability is enhanced to Rs.1,35,000/- by awarding Rs.3000/- per percentage for 45% disability. That apart, taking note of the nature of injuries sustained and the period of treatment taken by the appellant/claimant, the award of Rs.20,000/- towards pain and suffering is hereby enhanced to Rs.30,000/-.



8. However, there is no modification with regard to the compensation awarded by the Tribunal under the heads "Extra Nourishment", "Transportation", "Medical Expenses", "Attender Charges", "Loss of Earnings" and "Loss of Future Prospectus". Thus, the compensation awarded by the Tribunal is enhanced from Rs.2,54,800/- to Rs.3,09,800/-, the details of which are as follows:

Head	Compensation awarded by the Tribunal (Rs.)	Compensation enhanced by this Court (Rs.)
Permanent disability at 45%	90,000/-	1,35,000/-
Pain and Sufferings	20,000/-	30,000/-
Extra nourishment	10,000/-	10,000/-
Transportation	5,000/-	5,000/-
Medical expenses	78,283/-	78,283/-
Attender Charges	1,500/-	1,500/-
Loss of Earnings	30,000/-	30,000/-
Loss of Future Prospectus	20,000/-	20,000/-
Total	2,54,783/- rounded off Rs.2,54,800/-	3,09,783/- rounded off Rs.3,09,800/-

It is made clear that the enhanced sum of Rs.55,000/- shall carry interest at 7.5%pa only from the date of filing of this appeal.

9. In fine, this appeal is partly allowed. No costs. The second respondent/Insurance Company is directed to deposit the entire compensation amount, with interest and costs, after deducting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the appellant/claimant, through RTGS within a period of one week thereafter.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



To

1. The Motor Accidents Claims Tribunal,
Special Sub Court No.1,
Court of Small Causes, Chennai - 104.

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

+lcc to Mr.C.Richard Suresh Kumar, Advocate Sr.91756

+lcc to Mr.D.Bhaskaran, Advocate Sr.92001

C.M.A.No.3430 of 2019

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srg 13/07/2020