

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.409 of 2014

S.Sankaralingam

... Appellant/Petitioner

Vs.

1. M/s Chennai Cabs
No.29/1 (No.74), Mangapathy Street,
Chintadripet, Chennai 600 002.

(R1 was set ex-parte in Lower Court)

2. ICICI Lombard General Insurance Co. Ltd.,
I Floor, Arihant Plaza, No.84/85,
Waltax Road,
Chennai 600 003.

.... Respondents/ Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Award dated 25.09.2012 passed in MCOP No.3464 of 2010 by the IV Judge, Motor Accident Claims Tribunal/Court of Small Causes, Chennai.

For Appellant : Ms.M.Sudha for
M/s C & K Law Firm

For Respondents : Mrs.R.Srividhya (for R2)

JUDGMENT

The appellant is the claimant in MCOP No.3464/2010 on the file of the IV Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

2. The appellant/claimant filed the said claim petition under Section 166 of the Motor Vehicles Act and Rule 3 of the Motor Accident Claims Tribunal Rules, seeking compensation of Rs.7,00,000/- for the injuries sustained by him in a road accident that took place on 27.08.2010, when he was riding his motorcycle bearing registration No.TN-03-A-9822 along V.N.Road Junction, Annasali, Chennai. According to the claimant, a car bearing registration No. TN-01-AE 5125 came with

a high speed and hit his motorcycle, as a result of which, he sustained grievous injuries. The further contention of the claimant is that the rash and negligent driving of the driver of the car was the cause of accident and that since the owner of the vehicle, the first respondent herein insured his car with the 2nd respondent/ insurance company, both of them are jointly and severally liable to pay compensation to him.

3. The owner of the car, the first respondent herein remained absent before the tribunal and therefore he was set exparte. The 2nd respondent/insurance company contested the claim petition.

4. After analysing the evidence on record, the IV Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai awarded a compensation of Rs.3,06,205/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit. Not satisfied with the quantum of compensation, the claimant has filed the present appeal.

5. The learned counsel appearing for the appellant contended that though Dr.Thiagarajan (PW4) had assessed the partial permanent disability of the claimant as 80%, the Tribunal had awarded only a sum of Rs.1,00,000/- by reducing the percentage of disability as 50%. Therefore, he prayed for enhancement of compensation.

6. Per contra, Mrs.Srividhya, learned counsel appearing for the 2nd respondent contended that tribunal had considered various aspects of the case on hand and had awarded a just compensation of Rs.3,06,205/- and therefore, the same need not be disturbed at this stage.

7. The compensation awarded by the tribunal under various heads is extracted hereunder.

1. Loss of Income	- 30,000
2. Transportation	- 3,000
3. Extra Nourishment	- 10,000
4. Damage to clothing	- 1,000
5. Medical expenses	- 1,02,205
6. Attender's charges	- 10,000
7. Pain and sufferings	- 50,000
8. Permanent disability	- 1,00,000

Total 3,06,205

8. It is pertinent to point out that Dr.Thiagarajan (PW4) is not a doctor, who gave treatment to the injured. It is also seen that X-ray reports have not been filed before the tribunal. Without those records, Dr. Thiagarajan had assessed

the partial permanent disability of the claimant as 80%, which, in the opinion of this court, cannot be justified. Therefore, the tribunal was right in fixing the disability of the claimant as 50%, considering the discharge summary and the injuries sustained by the claimant. Admittedly, the claimant was working as Commercial Assistant in M/s GE Health Care Private Limited, T.Nagar, and therefore, there is no functional disability on account of the accident. The Tribunal had considered all the aspects of the case and had awarded a just compensation of Rs.3,06,205/- and I do not see any reason to interfere with the same.

9. In the result,

(i) The civil miscellaneous appeal is dismissed. No costs.

(ii) The award passed by the IV Judge/Motor Accidents Claims Tribunal, Court of Small Causes, Chennai in MCOP No.3464/2010 dated 25.09.2012 is upheld.

Sd/-

Assistant Registrar(Ad-I)

// True Copy//

Sub Assistant Registrar

mst

To

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

2.The Section Officer, V.R. Section,
High Court, Madras.

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+1cc to Mr.R.Sree Vidhya, Advocate, SR.No.77820.

WEB COPY

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RR(CO)

CSR: 27.02.2020