

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.3027 of 2017

S.Babu ... Appellant / Claimant.

Vs.

1. M.Ramachandran
2. National Insurance Co. Ltd.,
Motor Third Claims Hub
No.751 Anna Salai, Chennai 600 002.

Now functioning at:

National Insurance Co. Ltd.,
Motor Third Claims Hub
3rd Floor, Regina Mansion,
No.46 Moore Street, Chennai 600 001.

... Respondents /
Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 05.07.2017 passed in MCOP No.2962 of 2015 on the file of the III Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

For Appellant : M.Swamikannu

For Respondents: M/s. N.B.Surekha, for R-2,
No Appearance, for R-1.

J U D G M E N T

This Appeal is preferred by the claimant / appellant as against the findings on quantum by the Claims Tribunal in MCOP No.2962 of 2015 on the file of the Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

2. It is the case of the claimant, S.Babu, that he was aged 35 years, worked as Senior Sales Executive, in a private concern, earned a sum of Rs.17,000/- per month plus other allowances. On 09.03.2015 at about 12.00 noon, the appellant/claiming was riding his motorcycle bearing

Registration No.TN10-S-7425 from West to East direction in the 2nd Avenue Road (on the left side of the road) and when he was proceeding opposite to Santhosh Super Market, the Car bearing Registration No.TN22-BY-6826 came from behind in a very high speed, in a rash and negligent manner, and dashed against the appellant, due to which, he sustained multiple compound and comminuted fracture of left hand wrist and palm, internal injury in chest and skull and multiple injuries all over the body. Hence, he filed a claim petition seeking compensation of Rs.11,00,000/- before the Tribunal. After contest, the Tribunal has passed a total compensation of Rs.2,46,500/- with interest at 7.5% per annum from the date of petition till the date of deposit and costs. As against the said award, this Appeal is preferred by the appellant.

3. Despite notice ordered twice, the first respondent / Insured could not be served and hence considering the paucity of time, this Court takes-up the Appeal itself on merits.

4. Heard the learned counsel appearing for the appellant and learned counsel for R-2/Insurer.

5. There is no dispute with regard to the liability of the second respondent / Insurer in paying compensation to the appellant / claimant. Hence, this Court would like to deal with the quantum alone.

6. The learned counsel appearing for the appellant (claimant) submitted that the appellant is not in a position to attend his normal work for about five times after the accident, for which though claim was made towards loss of earning for Rs.85,000/- the Tribunal has awarded only a sum of Rs.73,300/-. It is also submitted that the Tribunal has erred in awarding Rs.14,572/- only towards medical expenses, when actually the expenses are more than Rs.1,00,000/-; that the Tribunal has erred in awarding lesser amounts towards disability, pain and suffering, attendant charges and loss of amenities; and in any event the total compensation at Rs.2,46,500/- awarded by the Claims Tribunal is on the lower side, which need substantial increase.

7. Per contra, the learned counsel for the R-2 / Insurer submitted that the Tribunal has considered each and every aspect into consideration and has awarded the compensation; that infact, the claimant has suffered only 20% partial permanent disablement and hence the amount awarded under disability, pain and suffering and loss of expectation of life cannot be said to be on the higher side; that the Tribunal has arrived at the

quantum, which in consonance with the fractures and injuries sustained by the claimant and hence interference of the same is uncalled for.

8. So far as the quantum of compensation awarded by the Claims Tribunal is concerned, the Tribunal has arrived the Medical expenses at Rs.14,572/- based on Ex.P-4-medical bill series. The Tribunal has also awarded a sum of Rs.10,000/-, Rs.20,000/-, Rs.2,500/-, Rs.10,000/- and Rs.1,000/- towards transportation expenses, extra nourishment, attendant charges, loss of expectation of life / mental shock and damage to cloths, respectively, based on the injuries and the period of treatment of the claimant. The claimant has taken treatment for 10 days as an inpatient and since he was not able to attend his job for three months, the Tribunal has granted compensation at Rs.73,300/- towards loss of income. Also, the Tribunal, on the head loss of expectation of life (shortening of normal longevity) awarded a sum of Rs.10,000/-. This Court is of the view that the amounts awarded under the above heads perfectly matches with the II Schedule of the Motor Vehicles Act and settled principles of law.

9. However, this Court is of the view that the amount of compensation awarded towards disability, loss of amenities / prospects of marriage and pain and suffering needs increase, since P.W.2 Doctor has deposed that the claimant is facing difficulty in lifting heavy weights in his left hand and he will face difficulty in riding the motorcycle. It appears from the Disability Certificate also that the claimant faces weakness in his left hand while holding objects, difficulty in driving two-wheelers and hence, this Court is of the view that amount of compensation under the said three heads needs slight increase. Hence, awarding sums of Rs.60,000/-, Rs.45,000/- and Rs.35,000/- under the heads Disability, Pain and suffering and loss of amenities / prospects of marriage would meet the ends of justice and they are awarded accordingly. The re-structured breakup details of the total amount of compensation reads thus:-

Heads	INR / Rs.
Medical expenses	14,572.00
Transportation expenses	10,000.00
Extra Nourishment	20,000.00
Attendant charges	2,500.00
Damage to cloths / personal materials	1,000.00
Loss of income	73,300.00
Disability	60,000.00
Pain and suffering	45,000.00

Heads	INR / Rs.
Loss of amenities / prospects of marriage	35,000.00
Loss of expectation of life / Mental shock	10,000.00
Total	2,71,372.00
Rounded off	2,71,500.00
Interest @	7.5%

10. In view of the above reasonings, this Civil Miscellaneous Appeal filed by the appellant / claimant stands partly-allowed by enhancing the total amount of compensation from Rs.2,46,500/- to Rs.2,71,500/- payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. No costs.

11. The second respondent / Insurance Company shall deposit the enhanced compensation amount, along with interest and costs, as awarded by this Court, (in this Appeal) less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the claims Tribunal shall transfer the compensation amounts to the RTGS Account of the claimant / appellant herein, within one week thereafter.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srk
To

1. The Judge,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.
2. The Section Officer,
V.R.Section, Madras High Court,
Chennai.

+lcc to Mr.M.Swamikkannu, Advocate Sr.93976
+lcc to Mr.N.B.Sureka, Advocate Sr.94347

C.M.A.No.3027 of 2017

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srg 30/09/2020