

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.698 of 2017

S.Harikrishnan

... Appellant/Petitioner

Vs

1.M/s.Sushi Niki Cabs

No.120/2, GNT Road, Ponnamman Medu
Chennai-110.

(R1- already set exparte in Lower Court
and hence notice may be dispensed with)

2.The National Insurance Co.Ltd.,

Branch Office at No.661,
Trunk Road, Poonamallee,
Chennai-56.

... Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 15.12.2015 made in MCOP No.114 of 2008 on the file of the Motor Accidents Claims Tribunal, III Additional District Judge, Poonamallee.

For Appellant : Mr.J.Mahalingam

For Respondents : Mr.J.Michael Visuvasam for R2

JUDGMENT

This appeal is preferred by the appellant/claimant against the award of a sum of Rs.75,000/- towards compensation due to the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 30.05.2007 at about 16.30 hours, the appellant was riding the bicycle from South to North direction in the western side of Dr.Natesan Road on the Ambedkar

Bridge, Chennai. At that time, the car bearing Reg.No.TN-05-S-951, belonging to the first respondent and insured with the second respondent Insurance Company, came from the same direction in a rash and negligent manner and dashed against the bicycle on the back side. Due to the said impact, the appellant sustained grievous injuries. The appellant / claimant filed a claim petition before the Tribunal, claiming a sum of Rs.2,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.75,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant-claimant has filed the present Civil Miscellaneous Appeal for enhancement of compensation.

4.The learned counsel for the appellant /claimant has submitted that P.W.2-Doctor certified the disability of the claimant at 20% and nothing was elucidated in the cross examination by the respondents to contract the evidences of P.Ws.1 and 2. In these circumstances, the Tribunal ought to have awarded the compensation of Rs.2,00,000/- as claimed by the appellant, according to the learned counsel for the appellant.

5.The learned counsel for the second respondent Insurance Company has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant and the learned counsel for the second respondent Insurance Company and perused the materials available on record carefully and meticulously.

7.The Tribunal has awarded a sum of Rs.5,000/- each towards transportation and extra nourishment, Rs.5,000/- towards loss of earning during the treatment period considering the economic situation and also on the ground that the appellant would have taken one month leave due to the injuries suffered, Rs.40,000/- towards 20% disability fixed by P.W.2-Doctor vide Ex.P8-Disability Certificate, at the rate of Rs.2,000/- per percentage of disability and Rs.20,000/- towards pain and suffering, considering the nature of injuries suffered. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The second respondent Insurance Company is directed to deposit the award amount with interest, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar (CS-IV)

// True Copy//

Sub Assistant Registrar

KM

To

- 1.The III Additional District Judge,
Motor Accidents Claims Tribunal,
Poonamallee.
- 2.The Section Officer,
VR Section,
Madras High Court.

+1cc to Mr.J.Michael Viswasam, Advocate, SR.No.88046.

C.M.A.No.698 of 2017

CA(CO)
CSR:18.03.2020

