

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2020

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.1283 OF 2011

Mr.M.Krishnamurthy

... Appellant/Petitioner

vs.

1. Mr.T.Loganathan

2. The New India Assurance Co. Ltd.,
No.45, 2nd Line Beach, Moore Street,
Chennai - 600 001.

... Respondents/Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decretal order made in M.C.O.P.No.1145 of 2003 dated 26.08.2009 on the file of the Motor Accidents Claims Tribunal, Vith Court of Small Causes, Chennai.

For Appellant : Ms.Ramya Rao

For Respondents : Mr.V.Sivalingam for R1
Not ready in notice for R2

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Appellant/claimant challenging the Award dated 26.08.2009 passed by the Motor Accident Claims Tribunal, Vith Court of Small Causes, Chennai, in M.C.O.P.No.1145 of 2003.

2.Heard Ms.Ramya Rao, learned counsel for the Appellant and Mr.V.Sivalingam, learned counsel for the first respondent.

3.The Appellant/claimant sustained injuries on 16.02.2002 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent. He preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.1145 of 2003 seeking compensation for the injuries sustained by him as a result of the accident.

4.The Motor Accident Claims Tribunal under the impugned Award has directed the respondents to pay the Appellant/claimant a sum of Rs.95,000/- as detailed hereunder:

For 35% disability	-	Rs.70,000/-
Pain and suffering	-	Rs.10,000/-
Loss of income	-	Rs. 9,000/-
Transport to hospital	-	Rs. 2,000/-
Extra nourishment	-	Rs. 3,000/-
Medical expenses	-	Rs. 1,000/-

Total		Rs.95,000/-

5.The Appellant/claimant has suffered fracture of tibia in his right leg, tenderness in his right leg and multiple injuries all over his body as a result of the accident.

6.Before the Tribunal, the Appellant/claimant has filed 9 documents which were marked as Exs.P1 to P9 and two witnesses were examined on his side namely the Appellant/claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the respondents, neither any document was filed nor any witness examined before the Tribunal.

7.The Doctor who examined the Appellant/claimant (PW2) has issued a disability certificate which has been marked as Ex.P8 and he has assessed the disability of the Appellant/claimant at 40%. The Tribunal under the impugned Award has assessed the disability compensation of the Appellant/claimant at 35% instead of 40% assessed by the Doctor. Considering the nature of injuries sustained by the Appellant/claimant as indicated earlier, the assessment of the Tribunal is a correct assessment.

8.The year of the accident is 2002. The Tribunal has awarded a sum of Rs.70,000/- as disability compensation to the Appellant/claimant calculated at Rs.2,000/- per percentage of disability. Considering the year of the accident, the assessment of the disability compensation is on the higher side. However, the Tribunal has not awarded any compensation towards loss of amenities and attender charges. Therefore, the disability compensation awarded by the Tribunal at Rs.70,000/- will adequately compensate towards the said heads also. Hence, the contention of the Appellant/claimant that the Tribunal failed to award compensation towards loss of amenities and attender charges is unsustainable. Insofar as other heads of compensation awarded by the Tribunal are concerned, the same is a just compensation and there is no scope for interference by this Court.

9. For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal.

10. Accordingly, the appeal shall stand dismissed. The respondents 1 and 2 jointly and severally are directed to deposit the entire amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 9.5% from the date of the claim till the date of realization to the credit of M.C.O.P.No.1145 of 2003, on the file of the Motor Accidents Claims Tribunal, VIth Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the bank account of claimant/appellant, through RTGS, within a period of two weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

pam

To

1. The Motor Accidents Claims Tribunal,
VIth Court of Small Causes, Chennai.
2. The Section Officer,
Vernacular Section,
Madras High Court.

C.M.A.No.1283 of 2011

SAI(CO)
CS/01/02/2021

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