

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:11.09.2020
CORAM
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
C.M.A.No.3402 of 2010

United India Insurance Co. Ltd.,
19, Whites Road, Royapettah,
Chennai-14.

... Appellant/2nd Respondent

vs.

1. D.Murugan
2. K.Selvaraj

... Respondent/Petitioner/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 14.12.2009 made in MCOP. No.883 of 2006 on the file of the Motor Accident Claims Tribunal (II Court of Small Causes, Chennai.)

For Appellant : Mr.S.Arunkumar
For Respondents : R1 - served No appearance
Not ready in notice reg. R2

JUDGMENT

[This Appeal was taken up for hearing through Video Conferencing]

This appeal has been filed by the Insurance Company challenging the award dated 14.12.2009 passed by the Motor Accident Claims Tribunal, (II Court of Small Causes, Chennai) in MCOP. No.883 of 2006.

2. The first respondent/claimant sustained injuries on 02.04.2001 as a result of an accident caused by an Oil tanker lorry bearing registration No. TN 09 F 9253 owned by the second respondent and insured with the appellant/insurance company.

3. The first respondent/claimant preferred a claim petition before the Motor Accident Claims Tribunal, in MCOP. No.883 of 2006, for the injuries sustained by him, as a result of the accident.

4. The Motor Accidents Claims Tribunal, under the impugned award dated 14.12.2009, directed the appellant/insurance company to pay the first respondent/claimant a compensation of Rs.2,75,000/-, together with interest and costs, as detailed hereunder:-

Sl.No.	Heads	Award
1	Future earnings	1,00,000/-
2	Transportation	20,000/-
3	Extra nourishment	20,000/-
4	Damages to motorcycle	20,000/-
5	Medical expenses	10,000/-
6	Pain and suffering	20,000/-
7	Permanent disability	85,000/-
	Total	2,75,000/-

5. The appellant/insurance company has preferred this appeal only on the ground that the quantum of compensation awarded by the Tribunal under the impugned award to the first respondent/claimant is excessive and it has to be reduced.

6. Heard Mr.S.Arunkumar, learned counsel for the Appellant / Insurance Company and there is no representation for the respondent 1 and 2.

7. Before the Tribunal, the first respondent/claimant has filed thirteen documents, which were marked as Ex.P1 to Ex.P13 and four witnesses were examined on his side viz., D.Murugan, the claimant himself as PW1; Doctors, who treated him as PW2 & PW3 and Mr.V.P.Sivaraman, Assistant Sub Inspector of Police, who received the complaint from him as PW4. On the side of the appellant/insurance company, neither any witness was examined nor any document filed before the Tribunal.

8. The first respondent/claimant has sustained fracture of mandible left, para symphysios and upper dento aiveotar facture and multiple injuries all over his body due to the accident.

9. Before the Tribunal, the Dentist (PW2) has assessed the Dental disability of the first respondent/claimant at 40% and the ortho Doctor (PW3) has assessed the disability of the first respondent/claimant at 45%. The Tribunal has awarded a disability compensation of Rs.85,000/- to the first respondent/claimant, after giving due consideration to the assesment of disability made by the Doctors (PW2 and PW3). This Court is in agreement with the said assessment.

10. The first respondent/claimant was aged 37 years old and was working as H.R. Manager at Kumaran Systems Private Limited, Chennai and earning Rs.21,782/- per month at the time of the accident. He has also filed his appointment order (Ex.P3) from his employer, which discloses his monthly salary. The Tribunal

has accepted the same and has fixed the monthly income of the first respondent/claimant at Rs.21,782/-. The Tribunal has awarded a huge compensation of Rs.1,00,000/- towards loss of future earning to the first respondent/claimant, without any documentary evidence in support of the same.

11. The first respondent/claimant has sustained fracture of mandible left, Para symphysios and upper dento alveolar fracture as a result of the accident. The nature of injuries sustained by the first respondent/claimant would have immobilized him only for a period ranging between 2 to 3 months and he would have been unable to go for employment only for the said period. However, without any basis and without any evidence whatsoever, the Tribunal has awarded a huge compensation of Rs.1,00,000/- towards loss of future earnings to the first respondent/claimant. This Court is of the considered view that the compensation towards loss of future earnings to the first respondent/claimants, will have to be reduced from Rs.1,00,000/- to Rs.50,000/-. Accordingly, this court reduces the compensation towards loss of future earnings from Rs.1,00,000/- to Rs.50,000/-

12. The Tribunal has awarded a compensation of Rs.20,000/- towards transportation, Rs.20,000/- towards extra nourishment, Rs.10,000/- towards medical expenses and Rs.20,000/- towards pain and suffering. This Court is of the considered view that the said compensation cannot be considered to be excessive and there is no scope for any interference. However, without any evidence whatsoever, the Tribunal has awarded a compensation of Rs.20,000/- to the first respondent/claimant towards damages to motor-cycle. There is no iota of evidence placed by the first respondent/claimant before the Tribunal to establish that his vehicle got damaged as a result of the accident. Accordingly, the said finding of the Tribunal is set aside by this Court.

13. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award to the first respondent/claimant is reduced from Rs.2,75,000/- to Rs.2,00,000/- in the following manner:

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Future earnings	1,00,000/-	50,000/-
Transportation	20,000/-	20,000/-
Extra nourishment	20,000/-	20,000/-

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Damages to motorcycle	20,000/-	
Medical expenses	10,000/-	10,000/-
Pain and suffering	20,000/-	20,000/-
Permanent disability	85,000/-	85,000/-
Total	2,75,000/-	2,00,000/-

Conclusion:

14. In the result, the appeal is partly allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The second respondent/Insurance Company is directed to deposit the modified award amount i.e. Rs.2,00,000/- along with interest and costs, after deducting the amount, if any already deposited, to the credit of MCOP.No.883 of 2006, within a period of four weeks from the date of receipt of a copy of this Judgment.

15. On such deposit being made, the Tribunal is directed to transfer the amount to the bank account of the first respondent/claimant through RTGS within a period of two weeks thereafter. No costs.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To

1. The II Judge,
Motor Accident Claims Tribunal,
(Court of Small Causes, Chennai.)
2. The Section Officer, VR Section,
High Court, Chennai.

+1cc to Mr.S.Arunkumar, Advocate, SR.No.29849.

C.M.A.No.3402 of 2010

KK(CO)

CSR 19.04.2021.