

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2209 of 2011

(Through Video Conferencing)

Ajayluke Joseph ... Appellant/Petitioner

Vs.

1.M/s. Suspa Penomatics (1) Ltd.,
144/7, Old Mahabalipuram Road,
Kottivakkam, Chennai - 41.

2.The New India Assurance Co. Ltd.,
DO.710800,
Ratna Building, 231, T.T.K.Road,
Alwarpet, Chennai - 18. Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the order and decree made in M.C.O.P.No.4767 of 2000 dated 18.11.2005, on the file of the Motor Accidents Claims Tribunal, Vth Judge, Small Causes Court, Chennai.

For appellant : M/s.R.Vasanthamala
for Mr.U.M.Ravichandran
For 2nd respondent: Mr.R.Neethi Perumal

J U D G M E N T

The claimant is appellant in this Civil Miscellaneous Appeal and is aggrieved by the impugned Judgment and Decree dated 18.11.2005 passed by the Motor Accidents Claims Tribunal, Chennai (Vth Small Causes Court, Chennai) in M.C.O.P.No.4767 of 2000.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.2,05,000/- as compensation together with interest at 7.5% p.a from the date of claim petition (06.11.2000) till the date of deposit under the following heads:-

Heads	Amount
Transport Expenses	Rs. 2,000/-
Extra Nourishment	Rs. 3,000/-
Medical Expenses	Rs.1,30,000/-
Pain and Sufferings	Rs. 20,000/-
Loss of Earning Capacity	Rs. 25,000/-
Disability	Rs. 25,000/-
Total	Rs.2,05,000/-

3. The aforesaid amount of compensation awarded by the Tribunal is contested in this appeal. The appellant seeks for enhancement of compensation.

4. I have heard the learned counsel for the appellant and the 2nd respondent.

5. There is no dispute regarding the nature of injuries suffered by the appellant/claimant which are head injury, fracture to the skull which resulted in bleedings and discharge from right ear for a period of 16 days, memory loss due to the accident and making the appellant prone to fits and giddiness and etc. The physicians who were examined as P.W.2 and P.W.3 have also assessed 25% partial permanent disability of the appellant.

6. I have considered the arguments advanced by the learned counsel for the appellant and the 2nd respondent. I have also perused the evidence on record.

7. In my view, the Tribunal ought to have awarded higher amount of compensation considering the fact that the appellant was a final year student of B.Sc. Visual Education. The appellant would have pursued with higher education and got a job. The Tribunal has not considered the notional income of the appellant merely because he was studying as a student in Loyala College. In Syed Sadiq Vs. United India Insurance Co.Ltd., (2014) 2 SCC 735, the Hon'ble Supreme Court has considered the notional income of a vegetable vendor as Rs.6,500/- per month in the year 2008 and in V.Mekala Vs Malathi and Another, (2014) 11 SCC 178, the Hon'ble Supreme Court has considered the notional income of a student studying in eleventh standard as Rs.10,000/- per month in the year 2005.

8. Considering the fact that the accident has taken place in the year 2000, I am inclined to fix the notional income of the appellant as Rs.3,000/- per month for the purpose of awarding

the compensation applying the ratio of the Hon'ble Supreme Court in Raj Kumar Vs. Ajay Kumar and Another, (2011) 1 SCC 343.

9. The Tribunal has awarded the compensation without any calculation. The bulk of the amount which has been awarded pertains to the medical expenses incurred by the appellant for his treatment in the Appollo Hospital as an inpatient. Though the appellant has not undergone to surgery, the appellant has suffered internal injury. The physicians who deposed evidence have also assessed 25% disability.

10. Therefore, the amount of compensation of Rs.2,05,000/- awarded by the Tribunal is re-quantified as follows:-

Heads and Calculation	Compensation enhanced by this Court
Loss of earning capacity:- # Monthly Income : Rs.3,000/- ** Add: Future Prospectus at 40% (3,000x 40/100) : Rs.1,200/- ----- : Rs.4,200/- ----- # Annual Income before the accident (4200 x 12) : Rs.50,400/- # Loss of future earning per annum at 25 % (50,400 x 25/100) : Rs .12,600/- * Applicable multiplier with reference to the age : 18 (18 x 12,600) : Rs.2,26,800/-	Rs.2,26,800/-
Pain and Sufferings	Rs. 25,000/-
Medical Expenses	Rs.1,30,000/-
Transport Expenses	Rs. 10,000/-
Extra Nourishment	Rs. 10,000/-
Loss of amenities	Rs. 10,000/-

Heads and Calculation	Compensation enhanced by this Court
Disability 25 x 1000	Rs. 25,000/-
Total	Rs.4,36,800/-

As per the decision in Raj Kumar's case (supra).

* As per the decision in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680 and in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12.

** As per the decision of the in Sanjay Verma Vs. Haryana Roadways, (2014) 3 SCC 210 and V.Mekala Vs. Malathi and Another, (2014) 11 SCC 178.

11. Therefore, 2nd respondent Insurance Company is directed to deposit the re-quantified amount of Rs.4,36,800/- together with interest at 7.5% from the date of claim petition (06.11.2000) till the date of such deposit and costs, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

12. On such deposit, the appellant/claimant is permitted to withdraw the same together with interest and cost, less any amount already withdrawn, by filing suitable applications.

13. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No cost.

Sd/-
Asst.Registrar (CS I)

/true copy/
Sub Asst. Registrar

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To:-

The Motor Accidents Claims Tribunal,
Vth Judge, Small Causes Court, Chennai.

+1 cc to Mr.U.M.Ravichandran Advocate sr28546

C.M.A.No.2209 of 2011

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