

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2378 of 2011

Chandrakanth

...Appellant/ Petitioner

vs.

1.Mrs.Poonam

2.The New India Assurance Co., Ltd.,
No.58, Pantheon Road,
Chennai - 600 008.

... Respondents/ Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.11.2006 made in MACT.O.P.No.4303 of 2000 on the file of the II Small Causes Court (Motor Accident Claims Tribunal), Chennai.

For Appellant

:

Mr.Rajkumar

for M/s.S.Ramasamy

For Respondents

:

R1 - exparte in
Tribunal

Mr.J.Chandran for R2

JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 10.11.2006 passed by the Motor Accident Claims Tribunal, II Small Causes Court, Chennai in M.C.OP.No.4303 of 2000.

2.Heard Mr.Rajkumar, learned counsel for the Appellant and Mr.J.Chandran, learned counsel for the second respondent. The first respondent has remained exparte both before the Tribunal as well as this Court.

3.The Appellant/claimant has sustained injuries on 11.02.2000 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 M.C.O.P.No.4303 of 2000 seeking compensation for the injuries sustained by him.

4.The Motor Accident Claims Tribunal under the impugned Award has directed the second respondent to pay the Appellant/claimant a compensation of Rs.95,000/- together with interest and cost.

5.The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

Heads	Awarded by the Tribunal in Rs.
Disability compensation	60,000/-
Pain and suffering	15,000/-
Medical bills	20,000/-
Total	Rs.95,000/-

6.The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this appeal.

7.The Appellant/claimant has sustained the following injuries:

- (a) Injuries on head
- (b) Face eye right heel
- (c) Fracture of right leg

8.In the claim petition, the Appellant/claimant has pleaded that he was the Chairman cum Managing Director of Arihant Pharmaceuticals (P) Ltd., and a Director in Alfred Berg & Co., (India) (P) Ltd. and he was earning Rs.18,250/- from each of the companies totaling to Rs.36,500/- at the time of the accident. He had made a claim for Rs.10,00,000/- before the Tribunal.

9.Before the Tribunal, the Appellant/claimant has filed 10 documents which were marked as Exs.P1 to P10 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 Appellant Insurance Company, neither any document was filed nor any witness examined before the Tribunal.

10.The Doctor (PW2) has assessed the disability of the Appellant/claimant at 70%. However, the Tribunal under the impugned Award has reduced the disability on its own and without any basis to 60% and has awarded a disability compensation to the Appellant/claimant at Rs.60,000/- calculated at Rs.1,000/- per percentage of disability. The Appellant/claimant was also hospitalised as seen from the

discharge summary issued by the hospital which were marked as Exs.P3 and P4. As seen from exhibits P3 and P4, the Appellant/claimant was hospitalised for a long period of time.

11.After giving due consideration to the nature of injuries sustained by the Appellant/claimant as well as the period of hospitalisation, the Tribunal ought not to have reduced the disability from 70% to 60% without any basis. This Court is of the considered view that the disability assessment made by the Doctor (PW2) is a correct assessment. Accordingly, the disability of the Appellant/claimant is assessed at 70% instead of 60% assessed by the Tribunal. However, the compensation awarded towards disability at Rs.1,000/- per percentage is a correct assessment. Accordingly, the disability compensation awarded by the Tribunal for the 70% disability is enhanced from Rs.60,000/- to Rs.70,000/- by this Court.

12.The Tribunal has fixed the compensation towards medical expenses at Rs.20,000/-. The Appellant/claimant before the Tribunal had filed medical bills which was marked as Ex.P5 which reveal that the total value of the bills is Rs.51,000/-. Even though, the same cannot be accepted by this in view of discrepancies, this Court is of the considered view that the compensation awarded by the Tribunal towards medical expenses at Rs.20,000/- is also too low. This Court, therefore, enhances it to a sum of Rs.30,000/-.

13.The Tribunal has awarded a compensation of Rs.15,000/- towards pain and suffering to the Appellant/claimant which is also low in the considered view of this Court. Accordingly, the same is enhanced to Rs.30,000/-.

14.The Tribunal has erroneously failed to Award any compensation towards loss of amenities, transportation cost and attender charge which the Appellant/claimant is legally entitled to as per the settled practice.

15.After giving due consideration to the year of the accident and the nature of injuries sustained by the Appellant/claimant, this Court fixes a compensation of Rs.10,000/- towards loss of amenities, Rs.5,000/- towards transportation cost and Rs.5,000/- towards attender charges.

16.For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.95,000/- to Rs.1,50,000/- in the following manner:

Heads	Awarded by the Tribunal in Rs.	Modified by this Court in Rs.
Disability compensation	60,000/-	70,000/-

Heads	Awarded by the Tribunal in Rs.	Modified by this Court in Rs.
Pain and suffering	15,000/-	30,000/-
Medical bills	20,000/-	30,000/-
Loss of Amenities	-	10,000/-
Transportation	-	5,000/-
Attender charges	-	5,000/-
Total	Rs.95,000/-	Rs.1,50,000/-

17.The second respondent Insurance Company is directed to deposit the modified award amount of Rs.1,50,000/- together with interest at the rate of 7.5% from the date of claim till the date of realization to the credit of M.C.O.P.No.4303 of 2000, on the file of the Motor Accidents Claims Tribunal, II Small Causes Court, 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 along with accrued interest lying to the credit of M.C.O.P.No.4303 of 2000 to the bank account of Appellant/claimant through RTGS, within a period of two weeks thereafter. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

pam

To

1.The Motor Accident Claims Tribunal,
II Small Causes Court, Chennai.

2.The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.Chandran , Advocate SR.No. 31087

+1cc to Mr.Ramasamy, Advocate SR.No. 30783

C.M.A.No.2378 of 2011

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A.SK(29.04.2021)