

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.2134 of 2015

Anandababu

...Appellant/Claimant

/versus/

1. Manivannan

2. Divisional Manager,
United India Insurance Company Limited,
No.46, Katpadi road,
Vellore.

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act pleaded to enhance the award against the judgement and decree dated 28.03.2011 and made in M.A.C.T.O.P.No. 595 of 2006 on the file of the Motor Accident Claims Tribunal and Principal Sub Judge, Tiruvannamalai.

For Appellant : Mr.A.Subadra for M.Malar
For Respondents: Mr.C.Paranthaman
for R2
R1 - Exparte

J U D G M E N T

Heard the counsel for the appellant and the respondent.

2. The appeal is preferred by the claimant seeking enhancement of compensation being not satisfied with the award of the Tribunal. The facts of the case is that on 30.05.2005 at about 11.30 A.M when the claimant was riding his Motor Cycle bearing Reg.No. TN05S5085, in Sathyamoorthy Nagar Main Road, Kennadi Nagar Junction, Chennai, an Auto bearing Reg.No. TN05M5720, in a rash and negligent manner came from behind and hit the claimant. In the said accident, the claimant sustained fracture on his left leg knee, left hand's little finger and suffered severe injuries all over his body. He was admitted in the hospital as inpatient for a day.

3. At the time of accident, the claimant was earning a sum of Rs.4,000/- per month as a sales executive in I.C.I.C.I Bank. Hence, he sought for compensation of Rs.5,00,000/- alleging that he incurred medical expenses of Rs.2,00,000/- for his injury and had lost his income during the treatment period and also lost future

earning capacity. Before the Tribunal, the appellant filed 9 documents including Ex.P.8 disability certificate and examined Dr.K.Ravindran, in support of his claim. The doctor has given the disability certificate Ex. P.8 assessing the permanent disability as 30%. An FIR has been registered on the driver of the auto. Relying upon these documents, the Tribunal has awarded a compensation of Rs.80,000/- to the claimant. In this appeal, the claimant contended that the award is very less for the injuries sustained.

4. The learned counsel for the appellant would submit that due to the fracture on the left leg knee and left hand's little finger, the claimant is unable to perform and suffer permanent disability. Further, no compensation awarded by the Tribunal for loss of amenity. The learned counsel for the appellant would further contend that the assessment for loss of income during the treatment period by the Tribunal, is very low and tribunal should have fixed the monthly income of the claimant at Rs.4,500/- notionally and should have awarded adequate compensation under the heads of loss of income for at least 6 months.

5. Per contra, the learned counsel for the respondent/Insurance Company would contend that the claimant sustained fractures and was treated only for a day in the hospital and no further treatment was required. Without any evidence for the injury, merely based on the Out Patient's treatment and the disability certificate given by the Doctor, who is not the Doctor who treated the claimant, the Tribunal has accepted the disability at 30% and awarded at Rs.60,000/- for disability and another Rs.20,000/- under other heads.

6. The accident occurred on 03.05.2005 and during that period, the compensation for each percentage of injury was only One Thousand Rupees. The learned counsel would also submit that in the absence of any document to prove the income of the claimant, the Tribunal ought not to have awarded Rs.9,000/- towards loss of income during the treatment period.

7. This Court, considering the rival submissions made by the respective counsels and on perusing the relevant documents,

finds that the claimant has sustained fracture in his left hand's little finger and injury on his left leg's knee in the accident. He was treated as inpatient for a day and got discharged. There is no further evidence to show the claimant's loss of income or other damages. Therefore in the above circumstances, the Tribunal has assessed damages under the following heads and awarded Rs.80,000/- as below;

Permanent disability(30%x2000)	Rs.60,000/-
Transportation	Rs.2,000/-
Extra Nourishment	Rs.2,000/-
Attender Charges	Rs.2,000/-
Loss of income	Rs.9,000/-
Pain and sufferings	Rs.5,000/-
Total	Rs.80,000/-

8. This Court finds there is no subsistence to interfere the award of the Tribunal. Hence, the appeal is dismissed confirming the award of the Tribunal. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm

To
The Motor Accident Claims Tribunal/Principal Sub Judge,
Tiruvannamalai.

Copy to :
The Section Officer,
VR Section , High Court Madras.

+2ccs to Mr.C.Paranthaman, Advocate, Sr.No. 36226
+1 cc to M/s.M.Malar, Advocate Sr.No. 36291

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LN(CO)
RMP(22/03/2021)