

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1281 of 2016

United India Insurance Co.Ltd.,
Motor Third Party Claims
Office HUB,
134 Silingi Building, 4th Floor,
Greens Road, Thousand Lights,
Chennai - 600 006.

... Appellant/2nd Respondent

Vs.

1.G.Gangadharan

2.H.Syed Imran

... Respondents/Petitioner/
1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 11.02.2016 passed in M.C.O.P.No.4575 of 2012 on the file of the Motor Accidents Claims Tribunal (V Court of Small Causes), Chennai.

For Appellant : Mr.A.Dhiraviyanathan

For R1 : Mr.R.Kalaiarasan

R2 : Experte in the Tribunal

सत्यमेव जयते
J U D G M E N T

The civil miscellaneous appeal is filed against the judgment and decree dated 11.02.2016 passed in M.C.O.P.No.4575 of 2012 on the file of the Motor Accidents Claims Tribunal (V Court of Small Causes), Chennai.

2. The accident occurred on 05.09.2012 around 22.30 hours at Porur to Kundrathoor Road, opposite to Arcot Biriyan and Porur Signal Point, Porur, Chennai - 116. The first respondent (hereinafter will be referred as the claimant) sustained fracture in fracture both bones right leg, dislocation of right

knee, surgery conducted and implants fixed and multiple injuries all over the body also. The claimant filed a claim petition before the Tribunal seeking compensation of Rs.10,00,000/-. The Tribunal considered the issue with reference to the documents as well as the evidence produced by the respective parties.

3. The Tribunal arrived at a conclusion that the accident took place due to the negligence of the rider of the motor-cycle bearing registration no.TN-30-AA-5493. With reference to the nature of injuries, the tribunal relied upon the discharge summary (Ex-P2) issued by Sri Ramachandra Medical Centre, Porur, Chennai. The discharge summary (Ex-P2) reveals that the claimant had sustained proximal tibia and fibula fracture - right side and was admitted in the hospital on 06.09.2012 and surgery was performed on 08.09.2012. As per FIR (Ex-P1), the accident took place on 05.09.2012 at 22.30 hours.

4. Gangadaran (PW1) (Claimant), in his evidence, has deposed that he was admitted in Sri Ramachandra Medical Centre, Porur, Chennai, for treatment. The discharge summary (Ex-P2) as well as FIR (Ex-P1) corroborates and accordingly, the Tribunal has arrived at a conclusion that the claimant sustained injuries on account of the road accident occurred on 05.09.2012 at 22.30 p.m.

5. The learned counsel appearing on behalf of the appellant mainly disputed the quantum of compensation awarded by the Tribunal. The Tribunal assessed partial permanent disability as 40 % and accordingly, granted Rs.3,000/- per percentage and compensation for disability was assessed as Rs.1,20,000/-. He also disputed the grant of compensation for pain, suffering and trauma, loss of amenities and future medical expenses.

6. This Court is of the considered opinion that the claimant sustained some serious injuries and fracture and also undergone surgery. The discharge summary (Ex-P2) also establishes the surgery undergone by the claimant and the subsequent treatments taken by the claimant. The copy of FIR (Ex-P1) also corroborates with the discharge summary (Ex-P2). This being the factum, this Court does not find any infirmity or illegality as such in the quantum of compensation awarded by the Tribunal.

7. The petitioner was working as Compliance Manager at New Travel Lines (India) Private Limited, Alandur, Chennai and was earning monthly salary of Rs.17,000/- per month. Considering the fact that the claimant was serving as the Compliance Manager, the loss of earning during the period of treatment was granted and in this regard, a sum of Rs.48,000/- was awarded by the tribunal.

8. Considering the overall compensation awarded by the Tribunal with reference to the nature of injuries as well as the surgery undergone by the claimant, this Court do not find any infirmity or illegality regarding the quantum of compensation awarded by the Tribunal, warranting interference.

9. The appellant is directed to deposit the entire award of compensation with accrued interest, if not already deposited, within a period of six weeks from the date of receipt of a copy of this order and on such deposit, the claimant is permitted to withdraw the same by filing an appropriate application and the payment are to be made only through RTGS.

Resultantly, the judgment and decree dated 11.02.2016 passed in M.C.O.P.No.4575 of 2012 on the file of the Motor Accidents Claims Tribunal (V Court of Small Causes), Chennai, stands confirmed and C.M.A.No.1281 of 2016 stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Judge,
Motor Accidents Claims Tribunal,
(V Court of Small Causes),
Chennai.

Copy to :

The Section Officer,
V.R Section,
Madras High Court,
Chennai - 600 104.

+1 cc to M/s.A.Dhiraviyanathan, Advocate Sr.No. 20093

C.M.A.No.1281 of 2016

GJ(CO)
RMP(16/12/2020)