

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2020

CORAM :

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2266 of 2012

Sasi Sekaran

..Appellant/Petitioner

Vs.

1.M.Sivakumar

2.The National Insurance Co Ltd.,
No.35, North Usman Road,
T.Nagar, Chennai -17.

..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in MCOP.No.823 of 2008 dated 01.02.2012 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.II, Chennai.

For Appellants : M/s.N.M.Muthurajan

For Respondents : R1 - Set exparte.

Mr.Krishnamoorthy, for R2.

J U D G M E N T

The appellant is the claimant filed this appeal for enhancement of compensation, as against the judgment and decree made in MCOP.No.823 of 2008 dated 01.02.2012 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.II, Chennai.

2. On 26.07.2006 at 21.20hrs the claimant was riding motor cycle bearing registration No.TN02-R-9066 from Choolaimedu to Mugappair in east to west direction, the first respondent driven the motor cycle bearing Registration No.TN01-V-4842 in a rash and negligent manner in the opposite direction to its wrong side and dashed against the claimant's vehicle, thereby the claimant sustained serious injuries and the claimant become partially and permanently disabled and not able to do his routine work as earlier.

3. The second respondent/insurance company filed the Counter inter alia stating that the accident was purely due to negligence of the claimant. The accident had occurred due to the reckless act of the claimant.

4. In order to prove the case of the claimant, PW1 and PW2 were examined and marked Ex.P1 to Ex.P11. No oral evidence has been adduced and marked Ex.R1 on the side of the respondents.

5. Heard the rival submissions made on both sides and perused the materials available on record.

6. The learned counsel for the appellant submits that the deceased was student at the time of accident and doing his research due to the injuries United States of America. In the Ex.P5 discharge summary from Sankara Nethralaya it has been referred as "he has right RAPD and optic neuropathy, which may be considered as grievous injury in the right eye". Ex.P6 is another certificate given by ENT surgeon, he has opined "he had no residual ENT complaints and was discharged". The learned counsel prays to adopt suitable multiplier method for arriving a compensation.

7. The learned counsel for the second respondent/insurance company submits that the Tribunal has rightly considered the entire facts and the nature of injuries sustained by the claimant and awarded fair compensation which is on higher side.

8. From the available records, it is seen that the tribunal has rightly considered the case of the claimant and taken the entire disability assessed by the PW2/Doctor and fixed Rs.2000/- per percentage is reasonable amount. Considering the age of the claimant and the mental agony to continue his studies and the pain suffered out of the accident, this Court is inclined to enhance the amount from RS.20,000/- to Rs.30,000/-. The Tribunal failed to award a compensation on the head of transportation, this Court awards a sum of Rs.5,000/- towards transportation charges.

9. This Court however considering the material factors relevant for determination of just and fair compensation is inclined to enhance the compensation as stated below, the enhanced compensation are as follows :-

Sl.No.	Heads	Amount
1	Future damages	60,000
2	Medical expenses	20,000
3	Pain and sufferings & Mental agony	30,000
4	Attendant charges and Nutrition	20,000
5	Transportation	5,000
	Total	1,35,000

10. The compensation of Rs.1,20,000/- is enhanced to Rs.1,35,000/-. The second respondent/Insurance Company is

directed to deposit the enhanced compensation payable with interest at 7.5% per annum from the date of petition till the date of payment and with proportionate cost. The time for payment of amount is eight weeks from the date of receipt of copy of the Judgment and on such deposit of amount, the claimant is permitted to withdraw the entire amount by filing separate cheque application.

11. In the result, the Civil Miscellaneous appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Additional District Judge,
Motor Accident Claims Tribunal,
Fast Track Court No.II, Chennai.

+1cc to Mr.N.M.Muthurajan, Advocate SR.NO..63341

AKM/21.04.21/3P-3C/

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24.01.2020.

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