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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02..11.2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Miscellaneous Appeal No.1897 of 2019

Anand

... Appellant

-Versus-

1.Ganesan

2.The Branch Manager,
Reliance General Insurance Co. Ltd.,
Trichy 620 018.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order and decree dated 21.03.2018 made in M.A.C.T.O.P.No.523 of 2016 by the Motor Accident Claims Tribunal at Puducherry.

For Appellant : Mr.V.Lakshminarayanan

For Respondents : Mr.S.Arunkumar for R2

JUDGEMENT

The Appellant, who is the claimant before the Motor Accidents Claims Tribunal, Puducherry, is before this court with this Civil Miscellaneous Appeal. He filed the claim petition before the Tribunal invoking Section 166(1) of the Motor Vehicles Act, 1989 seeking compensation of Rs.7,00,000/- for the injuries sustained by him in a motor accident. The Tribunal, by order dated 21.03.2018, awarded a compensation of Rs.1,17,936/- with interest @ 7.5% p.a. from the date of claim petition till date of deposit of the compensation amount. Feeling that the compensation is inadequate, the claimant is now before this court with the present appeal.

2. It is a case of injury. According to the appellant, on 27.03.2016 at about 01.15 p.m. while he was riding his motor cycle bearing Regn. No. PY 01 BV 5868 on Pondy-Villupuram Road, near Kannagi School junction at Villanur, a mini lorry, bearing Regn. TN 22 U 9806, belonging to the 1st respondent and insured with the 2nd respondent, which was proceeding in the same



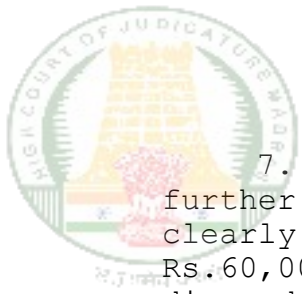
direction in a rash and negligent manner, was stopped suddenly by its driver in the middle of the road as a result of which, the petitioner dashed behind the lorry and was thrown away from his motor cycle and sustained multiple injuries. Immediately, he was taken to Government Hospital at Tindivanam and after first aid, he was taken to Government Hospital at Pondicherry for further treatment. At the time of accident he was working as Supervisor in a private company and was earning a sum of Rs.10,000/- p.m. and he was not able to discharge his work as before on account of the permanent disability suffered due to the injuries sustained in the road accident. Hence, seeking a sum of Rs.7,00,000/- as compensation he filed the claim petition.

3. The 1st respondent, who is the owner of the offending vehicle had remained absent before the tribunal and he was set ex pare. The 2nd respondent insurer contested the claim petition inter alia contending that the accident was taken place due to the rash and negligent riding of the appellant. At the time of accident, the appellant did not possess a valid license and being the tortfeasor, the appellant cannot claim compensation from the respondents. The 2nd respondent also disputed the income of the petitioner.

4. Before the tribunal, in order to prove his case, the appellant examined himself as P.W.1 and marked as many as 10 documents including the medical bills and discharge summary as Exs.P.1 to P.10. On the side of the respondents, no one was examined and no documentary evidence was adduced.

5. On considering the materials available on record, the tribunal has come to the conclusion that the accident took place due to the rash and negligent driving of the driver of the 1st respondent's mini lorry, which is insured with the 2nd respondent and, therefore, the respondents are liable to pay the compensation. So far as the quantum of compensation is concerned, the tribunal held that as per the medical evidence, the claimants had suffered disability of 11% which is partial permanent and awarded a total sum of Rs.1,83,000/- with interest. Aggrieved over the compensation awarded above by the tribunal, the claimant is before this court with this civil miscellaneous appeal.

6. The learned counsel appearing for the appellant would submit that the appellant had suffered multiple injuries and fracture due to which he suffered permanent disability at 11% and as such he was not able to discharge his duty as before. Therefore, the tribunal ought to have applied the multiplier method to compute the loss due to the permanent disability.



7. The learned counsel appearing for the appellant would further contend that Ex.P.8 and Ex.P.9 Medical Bills would clearly show that the appellant had incurred a sum of Rs.60,000/- towards medical expenses. The tribunal has, however, discarded the same and awarded only a sum of Rs.10,000/- towards medical expenses. That apart, towards transport expenses and attender charges only a meager amount have been awarded by the tribunal.

8. Per contra, the learned counsel appearing for the 2nd respondent would contend that the petitioner has suffered only a minor fracture and he had not suffered any permanent disability and as such on considering the available materials, the tribunal awarded a sum of Rs.33,000/- towards partial permanent disability. Insofar as the medical expenses is concerned, though the petitioner had produced few medical bills (Ex.P.8) and State of Bills(Ex.P.9), the statement was not authenticated by the hospital authority concerned. Therefore, the tribunal, did not accept the same and has rightly awarded a sum of Rs.10,000/- on actuals. So far as the compensation awarded under the other heads, the tribunal has rightly considered the available materials and awarded just and fair compensation. There is no need to interfere with the same. Therefore, the learned counsel prayed this court to dismiss the appeal.

9. I have considered the rival submissions.

10. So far as the disability is concerned, the tribunal accepted the certificate issued by the medical board which is marked as Ex.C.1 which would show that the appellant had sustained 11% disability which is partial permanent. There is no evidence available on record to show that the petitioner had suffered permanent disability so as to adopt the multiplier method. Thus, the tribunal was right in assessing the partial permanent disability suffered by the appellant and awarding a sum of Rs.33,000/- under this head which does not require any interference.

11. So far as the pain and sufferings is concerned, the tribunal has awarded a sum of Rs.50,000/- which is just and adequate. However, coming to the medical expenses, from the medical bills produced by the petitioner under Ex.P.8 and Ex.P.9, it could be seen that after accident, the appellant was admitted at Pandy Surgical Centre and the bills issued by the hospital authority for a sum of Rs.74,765/- include hospital charges, surgeon fees. After giving some discount for a sum of Rs.14765/- , a sum of Rs.60,000/- was the actual bill amount



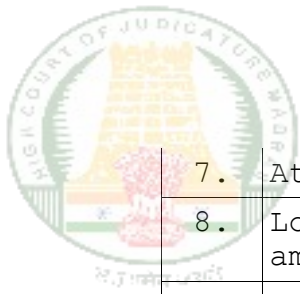
payable as could be seen from the statement appended to Ex.P.9. The tribunal has discarded the statement as it was not authenticated by the hospital authority and not supported by proper receipt.

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12. The learned counsel appearing for the appellant would rely upon another cash bill (Xerox copy) dated 01.04.2016 issued by the same hospital for a sum of Rs.86,000/- which was found signed by the Manger of the hospital. However, admittedly, this was not produced before the tribunal. Thus, at this stage, this court cannot admit the same in evidence. From a perusal of Ex.P.9, it could be seen that it is for Hospital Charges, Surgeon and Assistant fees, Nursing Charges, etc. Admittedly, the petitioner was admitted in the hospital and undergone surgery. Therefore, considering the above and the bills produced by the petitioner under Ex.P.8 and Ex.P.9 and also the one relied on before this court today by the learned counsel, this court finds no reason to discard Ex.P.9 bills. In the said circumstances, this court is inclined to award an additional sum of Rs.60,000/- towards medical expenses.

13. Under the head of transport charges a sum of Rs.10,000/- and under the head of attendant charges a sum of Rs.10,000/- were awarded by the tribunal. Going by the period and the nature of treatment, in the considered opinion of this court the amounts awarded under these head are not adequate and the same should be enhanced adequately. In the considered opinion of this court, awarding a sum of Rs.12,000/- towards transport charge instead of Rs.10,000/- and a sum of Rs.15,000/- towards attendant charges instead of 10,000/- would be just and adequate. The amounts awarded by the Tribunal under other heads are just and reasonable and hence the same stand confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:-

Sl. No.	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced (Rs.)
1.	Partial permanent disability	33,000	33,000	Confirmed
2.	Pain and sufferings	50,000	50,000	Confirmed
3.	Medical expenses	10,000	70,000	Enhanced
4.	Rich and nutritious food	15,000	15,000	Confirmed
5.	Transport expenses	10,000	12,000	Enhanced
6.	Loss of Income	30,000	30,000	Confirmed



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7.	Attender charges	10,000	15,000	Enhanced
8.	Loss of comfort and amenities	25,000	25,000	Confirmed
	Total	1,83,000	2,50,000	Rs.67,000 [Enhanced]

In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.1,83,000/- awarded by the Tribunal is hereby enhanced to Rs.2,50,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent is directed to deposit the award amount directed above along with interest and the costs as directed by the tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. Considering the facts and circumstances of the case, both parties shall bear their own costs in this appeal.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

kmk

To

1.The Motor Accident Claims Tribunal,
Puducherry.

2.The Section Officer,
VR Section, High Court,
Madras 60104.

+1cc to Mr.V.Raghavachari, Advocate Sr.35484

+1cc to Mr.S.Arunkumar, Advocate Sr.35738

C.M.A.No.1897 of 2019

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srg 27/08/2021