



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2333 of 2012

N.Srinivasan

... Appellant / Petitioner

Vs.

1. M.Ezhil Arasan

2. Royal Sundaram Alliance Insurance Co. Ltd.,
No.21, Patullos Road,
Chennai - 600 002.

... Respondents / Respondents

(R1 set exparte in the Lower Court)

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 18.06.2012 made in MACT.O.P.No.272 of 2010 on the file of the VI Judge, Motor Accidents Claims Tribunal, Small Causes Court, Chennai.

For Appellant: M/s.P.T.Salim Fathima

For R2 : Mr.E.Rajadurai
For M/s.M.B.Gobalan Associates

R1 - Exparte

Judgment

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 18.06.2012 made in MACT.O.P.No.272 of 2010 on the file of the VI Judge, Motor Accidents Claims Tribunal, Small Causes Court, Chennai.

2. The case of the appellant is that on 24.09.2009 at about 9.00 p.m., while the appellant was proceeding in Scorpio Car bearing Registration No.TN-20-AC-5000 in G.S.T.Road near Palayanoor Koot Road, Padalam, Kancheepuram District from North to South direction, due to mechanical defect, the Car suddenly swerved towards right, ran over the Central Median, gone to the Western side of the road and dashed against a Lorry bearing



Registration No.AP-26-U-3169 which was coming from South to North direction. Due to the impact, the appellant sustained multiple fractures and injuries all over the body, and immediately he was admitted in Government General Hospital at Chengalpet for treatment. At the time of accident, he was aged 37, and before the accident, he was a partner in Sri New Peacock Printers and Durgai Amman Traders located at Chennai and was earning Rs.12,000/- to Rs.15,000/- per month. Due to the injuries sustained in the accident, he became permanently disabled. Hence, he filed a petition before the VI Judge, Motor Accidents Claims Tribunal, Small Causes Court, Chennai, claiming Rs.16,00,000/- as compensation from the first and second respondents as they are the owner and insurer of the Car involved in the accident.

3. Denying the allegations, the second respondent insurance company filed a counter affidavit stating that the accident not occurred due to rash and negligent driving of the first respondent's driver. Hence, the appellant is not entitled to maintain the claim petition. Further, it has been stated that the driver of the first respondent was not having valid and effective licence on the date of accident. Hence they are not liable to indemnify the appellant. Moreover, it has been stated that the alleged age, income, occupation and disability are not true and the amount of compensation claimed is highly excessive.

4. During the trial, on the side of the appellant, the appellant himself was examined as PW2, one Dr.R.Amarnath was examined as PW4 and Exs.P1, P7 to P9, P17 & P18 were marked. On the side of the respondents, one Mr.Gagandeep Agarwal was examined as RW1 and Exs.R1 to R5 were marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidence, allowed the petition in favour of the claimant and awarded Rs.2,91,584/- as compensation as follows :

S.No.	Description	Amount
1.	Loss of Income for four months at the rate of Rs.4,500/- per month	13,500
2.	Transportation	7,000
3.	Extra Nourishment	5,000
4.	Damage to clothes	1,000
5.	Medical Expenses	1,25,084
6.	Pain and Suffering	30,000



WEB COPY

S.No.	Description	Amount
7.	Disability of 55% at Rs.2,000/- per percentage	1,10,000
	Total	2,91,584

6. Aggrieved by the award, the appellant/claimant has filed this appeal before this Court stating that the Tribunal has erred in fixing the compensation and the same has to be corrected by this Court.

7. Heard the learned counsel for the appellant and the learned counsel for the second respondent, and perused the materials available on record.

8. On perusal of the award dated 18.06.2012 passed by the VI Judge, Motor Accidents Claims Tribunal, Small Causes Court, Chennai, it is observed that the Tribunal while perusing the FIR copy and the MVI Report marked as Exs.P1 & R4 has found that the accident was not due to any mechanical defect and it was only due to rash and negligent driving of the first respondent's driver, and therefore, has held that the first respondent's driver was the cause for the alleged accident. As far as quantum of compensation is concerned, it is observed that the appellant had lost his Income for three months due to the injuries sustained in the accident, but the Tribunal while awarding compensation under the said head has wrongly mentioned as four months and this Court is inclined to modify it as three months. Further, it is observed that the sum of Rs.2,000/- awarded per percentage of disability and the sum awarded under the heads of Transport and Damage to clothes are found to be meager and therefore this Court is inclined to enhance the same. Moreover, it is observed that the Tribunal has not awarded any compensation towards Attender charges. During the period of treatment, the appellant would have spent some amount for Attender, and considering the same, this Court is inclined to award Rs.5,000/- under the said head. The sum awarded under the heads of Extra Nourishment, Medical Expenses and Pain & Suffering is reasonably awarded by the Tribunal and therefore they need not require any interference of this Court.

9. In view of the observations made by this Court, the compensation awarded by this Tribunal is modified as follows :



WEB COPY

12. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

raja
To

1. The VI Judge,
Small Causes Court (Motor Accidents Claims Tribunal),
Chennai.
2. The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.N.Vijayaraghavan, Advocate Sr.9622
+1cc to Mr.M.Swamikannu, Advocate Sr.8971

C.M.A.No.2333 of 2012

svi[col]
srg 16/08/2021