

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.2410 of 2015

C.Ayyavoo

...

Appellant/Petitioner

/versus/

1. C.Dharmalingam

2. Tmt.K.A.Sivakami

3. Reliance Insurance Company Ltd.,
2nd Floor - Hariba Centre,
D.No.965, Avinashi Road,
Coimbatore.

...

Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to enhance the compensation amount awarded in the order and award dated 22.04.2015 in M.C.O.P.No.115 of 2014 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge, Erode.

For Appellant : Mr.R.Prabakar

For Respondent : Mrs.C.Bhuvanasundari for R1.

Mr.S.Arunkumar for R3

R2 - No appearance.

JUDGMENT

(The case has been heard through video conference)

Heard the learned counsel for the appellant and the respondent.

2. The appeal is filed for enhancement of compensation on the ground that the award of compensation passed by the Tribunal is less and not reasonable. The case of the claimant is that on 12.08.2013, at about 7.30 A.M., when he was riding in Motor Cycle bearing registration No. TN 33 AV 4836 on Poondurai to Erode main road, KAS bus bearing registration No. TN 33 AC 7888, had stopped towards west for alighting and boarding the passengers and the said bus suddenly moved on the right side of the road and hit against the two wheeler.

3.The claimant thereby sustained injuries and was admitted in the hospital. He took treatment as inpatient from 12.08.2013 to 15.08.2013 for the injuries sustained and incurred medical expenses and loss of earning. Hence, the tribunal after assessing the injury and medical records has awarded a compensation to the tune of Rs.75,600/-, though the claim petition was filed for a compensation to the tune of Rs.5,00,000/-. Aggrieved over the same, the present appeal has been filed.

4.The learned counsel for the appellant would submit that the claimant was working as a Machine Operator in Thiruvannamalai, earning a sum of Rs.12,000/- per month. Due to this accident, he was unable to attend his job for more than 4 months. However, the Tribunal has not considered the loss of income during the treatment period and similarly the disability sustained by him was assessed by the doctor as 10%, but, the Tribunal assessed the disability only as 7% .

5.The learned counsel appearing for the Insurance Company would submit that the injuries sustained by the claimant was superficial and after the treatment, he had been totally recovered and there is no permanent disability. Therefore, the award passed by the Tribunal is just, reasonable and sufficient.

6.The discharge summary marked as Ex.P10 indicates that the claimant had suffered soft tissue loss dorsum in the right foot and splint skin grafting in the right dorsum foot has been conducted and he was discharged. Though the claimant submitted that he was earning Rs.12,000/-, there is no document produced by him to substantiate the same. Hence, the Tribunal has fixed his monthly income notionally at Rs.4,500/-.

7.This Court considering the age of the claimant, who was 66 years old at the time of accident and his earning capacity would be more than 4,500/-, fixes the monthly income at Rs.7,000/- per month and loss of income during the treatment period is assessed as Rs.21,000/-. In addition, a sum of Rs.20,000/- is awarded for loss of amenities. As far as the other heads, the compensation awarded by the Tribunal is confirmed.

Loss of income	Rs.21,000/-
Transport expenses	Rs. 2,000/-
Extra Nourishment	Rs. 5,000/-
Damages for cloths	Rs. 1,000/-
medical Expenses	Rs.29,600/-

Loss of income	Rs.21,000/-
Pain and Suffering	Rs.15,000/-
Disability	Rs.14,000/-
Loss of amenities	Rs.20,000/-
Total	Rs.1,07,600/-

Accordingly, the award of the Tribunal at Rs.75,600/- is enhanced to Rs.1,07,600/- with interest at 7.5% p.a.

8. This Civil Miscellaneous Appeal is partly allowed and the compensation enhanced by this court has to be paid with interest 7.5% from the date of realisation. The third respondent / Insurance Company is directed to deposit the said compensation within a period of twelve weeks from the date of receipt of a copy of this order and on such deposit, the claimant is permitted to withdraw the same on application. No costs.

Sd/-

Assistant Registrar (Co)

//True Copy//

Sub Assistant Registrar

kmm

To

The Motor Accidents Claims Tribunal,
Special Subordinate Court, Erode.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras. (2 copies)

+1cc to Mr. R.Prabakar, Advocate, S.R.No. 37452
+1cc to Mr. S.Arunkumar, Advocate, S.R.No. 33646

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AD(CO)
GN(07/05/2021)