

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2233 of 2013

Dr.Samiullah

.. Appellant/Petitioner

Vs.

1.Sundaramurthy

2.The Divisional Manager,
New India Assurance Company Limited,
Divisional Office,
Bangalore Road,
Hosur.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 29.09.2009 made in M.C.O.P.No.631 of 2008 on the file of Motor Accident Claims Tribunal, Additional Special Judge, Krishnagiri.

For appellant : Mr.M.Sriram.

For respondents : Mrs.R.Sreevidhya for R2.
R1- Not ready notice.

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant seeking enhancement of compensation granted by the Tribunal in the award dated 29.09.2009 made in M.C.O.P.No.631 of 2008 on the file of Motor Accident Claims Tribunal, Additional Special Judge, Krishnagiri.

2.The case of the appellant is that on 17.12.2003, at about 17.00 hours the appellant was driving the TVS XL bearing Registration No.TN-29-K-0178 from Salem said towards Royakottai road in Krishnagiri to Bangalore NH-7 Road. The appellant was proceeding on the left side of the road slowly and was going near old MVI Office, the driver of the Eicher Vehicle bearing Registration No.TN-01-W-4080 belonging to the first respondent insured with the second respondent drove the same in a rash and

reckless manner without following road rules and dashed behind the vehicle of the appellant and caused accident. Due to the said accident, the appellant sustained multiple injuries.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the Eicher Vehicle. The first respondent is the owner and the second respondent is the insurance company and directed the second respondent-Insurance Company, on behalf of the first respondent, to pay a sum of Rs.2,43,570/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

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

5. A perusal of the records shows that the claimant has sustained multiple fracture and head and grievous injuries all over the body. Dr.Ashok Kumar (PW2) has assessed the partial permanent disability as 60%, considering the nature of the disablement the Tribunal has accepted the same and awarded a sum of Rs.60,000/- (Rs.1,000/- per percentage of disability) towards disability. Considering the facts and circumstances the said case, the accident occurred in the year 2003, the claimant being a Doctor, he would not be in a position to perform his clinical works as earlier, hence, this Court is inclined to enhance a sum of Rs.2,000/- per percentage of disability and awarded a sum of Rs.1,20,000/- (Rs.2,000/- x 60%) which is very reasonable. The nature of injuries sustained by the appellant the Tribunal has awarded a sum of Rs.30,000/- and the same is hereby confirmed. It is seen that the appellant was working as a practicing Doctor and earning a sum of Rs.15,000/- per month, the appellant has not filed any proof to show his income, but there is a possibility for the appellant to avoid the practice for atleast three months due to wounds and fracture sustained by him. The above said period has to be compensated at the rate of Rs.3,000/-p.m. for three months and awarded a sum of Rs.9,000/-. The appellant was working as a practicing Doctor, at the time of accident he could have earned more than Rs.10,000/- hence, this Court increase his monthly income as Rs.10,000/- per month and awarded a sum of Rs.30,000/- for three months. The Tribunal has awarded a sum of Rs.5,000/- towards the heads of Transportation and Extra nourishment. Anyhow, there is a possibility to go to hospital by hired vehicle and to eat rich nutrition food to heal the wound. Hence, this Court is inclined to award a sum of Rs.5,000/- each towards the same. Considering the medical bills and receipts the Tribunal has awarded a sum of Rs.1,39,570 towards the Medical Expenses and the same is hereby confirmed.

The Tribunal has rightly awarded a sum of Rs.30,000/- towards pain and sufferings and Mental Agony and the same is also hereby confirmed. The Tribunal has not award any amount towards the head of Attender charges, this Court is inclined to award a sum of Rs.10,000/- towards attender charges. The award passed by this Court under various heads is extracted hereunder:

S.No	Heads	Amount
1.	Disability (Rs.2000 x 60%)	1,20,000
2.	Loss of income (Rs.1000x3months)	30,000
3.	Transportation	5,000
4.	Extra nourishment	5,000
5.	Medical expenses	1,39,570
6.	Pain and sufferings	30,000
7.	Attender charges	10,000
	Total	3,39,570

6. The compensation of Rs.2,43,570/- is enhanced to Rs.3,39,570/-. The insurance company to pay interest at 6% from the date of filing the appeal. 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.

7. In the result, the civil miscellaneous appeal is partly allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsh

To

1.Motor Accidents Claims Tribunal,
Additional Special Judge, Krishnagiri.

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

+1 cc to M/s.Mukund R.Pandiyan, Advocate Sr.No. 8442
+1 cc to M/s.R.Sree Vidhya, Advocate Sr.No. 9435

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SPD (CO)
RMP (22/03/2021)



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