

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No. 2720 of 2012

K.Rathinam .. Appellant/2nd Respondent

Vs.

1.P.Anand

2.M/s. United India Insurance Company Limited,
Katpadi Road, Vellore,
Vellore District. .. Respondent/ Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.08.2006, made in M.C.O.P. No. 255 of 2004, on the file of the Motor Accident Claims Tribunal, Sub-Court, Tirupattur, Vellore District.

For Appellant : Mr. F.Terry Chella Raja
for Ms.M.Malar

For R2 : Mr.M.J.Vijayaraghavan

J U D G M E N T

This appeal has been filed for enhancement of the compensation granted by the award dated 28.08.2006, made in M.C.O.P. No.255 of 2004, on the file of the Motor Accident Claims Tribunal, Sub-Court Tirupattur, Vellore District.

2.The appellant is the claimant in M.C.O.P. No. 255 of 2004, on the file of the Motor Accident Claims Tribunal, Sub-Court Tirupattur, Vellore District. He filed the above said claim petition, claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by him in the accident that took place on 07.04.2004.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the 1st respondent and directed the 2nd respondent-Insurance Company as insurer of the vehicle to pay a sum of Rs.12,500/- as compensation to the appellant.

4. Not being satisfied with the amounts awarded by the Tribunal in the award dated 28.08.2006, made in M.C.O.P. No.255 of 2004, the appellant has come out with the present appeal seeking enhancement of compensation.

5. Learned counsel appearing for the appellant contended that in the accident, the appellant sustained grievous injuries and has taken treatment as in-patient at Government Hospital, Vaniyambadi and thereafter at Government General Hospital, Chennai. The Tribunal erred in awarding only a sum of Rs.2,000/- for loss of income and Rs.9,000/- towards five simple and two grievous injuries. The Tribunal has not awarded any amount towards pain and sufferings, loss of future income and loss of earning capacity. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of the compensation.

6. Per contra, Mr.M.J.Vijayaraghavan, learned counsel appearing for the second respondent-Insurance Company contended that the appellant has suffered only simple injuries and has taken treatment in Government Hospital and has not spent any amount for medical expenses. The appellant has not proved that he suffered disability due to the injuries sustained in the accident. The amounts awarded by the Tribunal under different heads are not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of appeal.

7. Heard the learned counsel appearing for the appellant as well as the 2nd respondent and perused the materials available on record.

8. From the award of the Tribunal, it is seen that according to the appellant, he sustained grievous injuries in the accident. The Tribunal considering Ex.P2/Wound Certificate, held that the appellant suffered two grievous injuries and five simple injuries. The appellant did not examine any Doctor to prove that he suffered any disability. The Tribunal considering Ex.P2/Wound Certificate, granted a sum of Rs.1,000/- each for five simple injuries (5 x 1000) and Rs.2,000/- each for two grievous injuries (2 x 2000), totalling Rs.9,000/- for injuries. The Tribunal having held so, has granted the said amount of Rs.9,000/- under the heading pain and suffering. The appellant is entitled to separate compensation for injuries and pain & sufferings. Therefore, a sum of Rs.9,000/- granted by the Tribunal towards pain and suffering is modified as compensation for injuries. A sum of Rs.5,000/- is granted towards pain and sufferings. The appellant has claimed that he was working as a Security Guard at a Private Tannery at Valayampattu and was earning a sum of Rs.2,000/- per month. The Tribunal has accepted the same and fixed the monthly income of the appellant as Rs.2,000/- and awarded a sum of Rs.2,000/- towards loss of income for one

month. Due to injuries sustained by him in the accident and treatment taken in the hospital, the appellant would not have worked atleast for a period of three months. Therefore, the appellant is entitled to a sum of Rs.6,000/- (Rs.2,000/- X 3 months) towards loss of income. The amount of Rs.500/- awarded by the Tribunal towards extra nourishment is meagre and hence the same is enhanced to Rs.3,000/-. The Tribunal has not awarded any amount for medical expenses on the ground that the appellant has not filed any document for medical expenses and he has taken treatment only in the Government Hospital. Though the appellant has taken treatment in the Government Hospital, he would have spent some amount towards medical expenses. Therefore, a sum of Rs.5,000/- is awarded towards medical expenses. The accident has occurred while the appellant was riding in his bicycle and he claimed a sum of Rs.2,000/- for repairing the damages caused to his bicycle. The Tribunal has not granted any amount for repairing the damages caused to his bicycle and damages to clothes. Therefore, sum of Rs.1,000/- is awarded to the appellant for repairing the damages caused to his bicycle and a sum of Rs.500/- towards damages to clothes. The amount awarded by the Tribunal towards transportation is just and reasonable and hence, the same is confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	2,000/-	6,000/-	Enhanced
2.	Injuries	9,000/-	9,000/-	Confirmed
3.	Extra nourishment	500/-	3,000/-	Enhanced
4.	Transportation	1,000/-	1,000/-	Confirmed
5.	Pain and suffering	-	5,000/-	Granted
6.	Damages to clothes	-	500/-	Granted
7.	Medical expenses	-	5,000/-	Granted
8.	Repairing the damages to the bicycle	-	1,000/-	Granted
	Total	Rs.12,500/-	Rs.30,500/-	Enhanced by Rs.18,000/-

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.12,500/- is hereby enhanced to Rs.30,500/- along with interest and costs. The 2nd respondent Insurance Company is directed to deposit the

enhanced award amount, now determined by this Court, along with interest and costs, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.255 of 2004, on the file of the Motor Accident Claims Tribunal, Sub-Court, Tirupattur, Vellore District. On such deposit, the appellant is permitted to withdraw the enhanced award amount now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. The appellant is directed to pay the court fee, if any, on the enhanced amount of compensation. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

maya/krk
To

1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Tirupattur,
Vellore District.

2.The Section Officer,
V.R Section,
High Court, Madras.

C.M.A. No. 2720 of 2012

A.SK(08.01.2021)

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