

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3181 of 2012

(Through Video Conferencing)

R.Mathiyazhagan ... Appellant/petitioner

Vs.

1.S.Baskaran

2.National Insurance Company Limited,
No.351, Mint Street,
Sowcarpet, Chennai - 79 ... Respondents/Respondents

(The 1st respondent exparte in lower Court)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment dated 28.06.2011 made in M.C.O.P.No.2222 of 2006, on the file of Motor Accident Claims Tribunal (Vth Small Causes Court), Chennai.

For Appellant : Mr.K.Varada Kamaraj

For 2nd respondent : Mr.S.Vadivel

J U D G M E N T

With consent of the learned counsel for the appellant and the 2nd respondent, this Civil Miscellaneous Appeal is taken up for hearing and the case is accordingly disposed.

2. The appellant/claimant is aggrieved by the impugned Judgment and Decree dated 28.06.2011 passed by the Motor Accident Claims Tribunal (V Court of Small Causes, Chennai), Chennai in M.C.O.P.No.2222 of 2006.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.3,18,500/- as compensation together with interest at 7.5% per annum from the date of numbering of the

claim petition till the date of deposit, to the appellant/claimant

4. In the claim petition, the appellant/claimant stated that he suffered injuries in a motor vehicle accident on 14.02.2005 when he was riding auto rickshaw, a lorry bearing registration No. TN-60-8260 driven by its driver in a rash and negligent manner, knocked the auto rickshaw and injured the appellant/claimant. The lorry was insured with the 2nd respondent Insurance Company. Two other claimants also filed their respective claim petitions before the Tribunal. Details of the injuries suffered by the appellant/claimant as follows:-

- i. Head Injury
- ii. Left Hand 2, 3 & 4th Metacarpals Fracture
- iii. Fryharan type 8 Fracture
- iv. Right wrist Fracture,
- v. Right elbow Fracture,
- vi. Loss of skin in left dorsum
- vii. Nosal bone fracture
- viii. Loss of vision in both the eyes
- ix. Dentaveolar Fracture associated with 11, 21, 23 & 24.
- x. Loss of teeth 12, 22, 25, 31, 32, 41 & 42.
- xi. Laceration of tunk
- xii. Lareceation all over the body

5. Therefore, in the claim petition, the appellant/claimant had claimed a compensation of Rs.6,00,000/-. After considering the evidence on record, the Tribunal has awarded the aforesaid compensation of Rs.3,18,500/- together with interest at 7.5% per annum from the date of numbering of the claim petition. In this appeal, the appellant/claimant seeks for enhancement of compensation.

6. I have considered the arguments advanced by the learned counsel for the appellant and the 2nd respondent Insurance Company. I have also perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

7. It is noticed that the Tribunal has not awarded just compensation to the appellant/claimant considering the nature of injuries. Therefore, the compensation awarded by the Tribunal to the appellant/claimant is to be partially modified by adding a sum of Rs.1,50,000/- as follows:-

Heads	Award amount of the Tribunal	Amount fixed by this Court	Status of the award amount (confirmed or enhanced or granted or reduced)
Loss of earning	Rs. 60,000/-	Rs. 60,000/-	Confirmed
Transport to Hospital	Rs. 7,500/-	Rs. 7,500/-	Confirmed
Extra Nourishment	Rs. 10,000/-	Rs. 10,000/-	Confirmed
Damages to clothes	Rs. 1,000/-	Rs. 1,000/-	Confirmed
Medical Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
Pain and Sufferings	Rs. 25,000/-	Rs. 50,000/-	Enhanced
Permanent Disability	Rs.1,50,000/-	Rs.2,25,000/-	Enhanced
Loss of earning capacity	Rs. 50,000/-	Rs. 50,000/-	Confirmed
Attender Charges	-	Rs. 20,000/-	Added
Loss of amenities	-	Rs. 30,000/-	Added
Total	Rs.3,18,500/-	Rs.4,68,500/-	Enhanced by another sum of Rs.1,50,000/-

Therefore, the total amount of compensation of Rs.3,18,500/- awarded by the Tribunal is enhanced to Rs.4,68,500/-.

8. Therefore, the 2nd respondent Insurance Company is directed to deposit the enhanced amount of compensation of Rs.1,50,000/- (4,68,500 - 3,18,500) together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, within a period of six weeks from the date of receipt of a copy of this Judgment.

9. If the 2nd respondent Insurance Company has not deposited the amount of compensation of Rs.3,18,500/- awarded by the Tribunal, it is also directed to deposit the same together with

interest as directed by the Tribunal, less the amount already deposited if any, within the aforesaid period.

10. On such deposits, the appellant/claimant is permitted to withdraw the same together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

11. This Civil Miscellaneous Appeal stands partly allowed. No cost.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

Motor Accident Claims Tribunal
(V Small Causes Court),
Chennai.

Copy to

The Section officer
VR Section
High Court
Madras-104

C.M.A.No.3181 of 2012

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