

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3182 of 2012

(Through Video Conferencing)

D.Manickam ... Appellant/Petitioner

Vs.

1.M/s.Holy Satellite town ltd.,
No.12, Ganapathy Street,
Royapettah,
Chennai - 600 014.

2.The United India Insurance Company Ltd.,
No.26, Ethiraj Salai, Egmore,
Chennai - 600 008. ... 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 23.07.2010 made in M.C.O.P.No.1175 of 2007, on the file of Motor Accident Claims Tribunal, (IVth Fast Track Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For R2 : Mr.M.B.Raghavan

J U D G M E N T
सत्यमेव जयते

With consent of the learned counsel for the appellant and the 2nd respondent Insurance Company, this Civil Miscellaneous Appeal is taken up for final hearing and is disposed by this Judgment.

2.The claimant has filed this Civil Miscellaneous Appeal for enhancement of compensation as against a sum of Rs.3,05,850/- awarded by the Tribunal for the injury suffered by him.

3. It is the case of the appellant/claimant that on 04.02.2006 at about 7.45 hours, when the appellant/claimant was traveling as a pillion rider in a motor cycle bearing

registration No. TN-22-AK-7144 driven by his friend deceased Arumugam, nearby SNR Motors, Vandalore, Valaja Road, an insured lorry bearing registration No.TN-07-T-7440 was driven by its driver in a rash and negligent manner and hit the said motorcycle, as a result of which, deceased Arumugam died on the spot while the appellant/claimant who was the pillion rider suffered grievous injuries.

4. Therefore, the appellant/claimant filed the above claim petition for compensation for the injuries suffered by him. After considering the evidence on record, the Tribunal has awarded the aforesaid compensation. Aggrieved by the same, appellant/claimant has filed this Civil Miscellaneous Appeal for enhancement of compensation.

5. It is contention of the learned counsel for the appellant/claimant that though the disability has been assessed as 80% by the doctors, it has been reduced to 60% by the Tribunal while calculating the compensation.

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

7. Considering the nature of the injury suffered by the appellant/claimant, there is no necessity for the Tribunal to reduce the percentage of disability to 60% for the purpose of determining the compensation towards disability and future loss of earning power. Under these circumstances, there shall be an enhancement of compensation by another sum of Rs.1,20,000/- ($3000 \times 80 = 2,40,000 - 12,0000$) under the head of disability and future loss of earning power.

8. Considering the nature of the injury suffered by the appellant, I am also inclined to enhance the compensation by another sum of Rs.30,000/- towards pain and sufferings and Rs.25,000/- towards Loss of amenities of life. A sum of Rs.25,000/- is granted towards Attender Charges as the appellant/claimant is still undergoing treatment.

9. Therefore, the compensation of Rs.3,05,850/- awarded by the Tribunal is enhanced to Rs.5,05,850/- by adding another sum of Rs.2,00,000/- ($1,20,000 + 30,000 + 25,000 + 25,000$). Therefore, the 2nd respondent Insurance Company is directed to deposit the enhanced amount of compensation of Rs.2,00,000/-

together with interest at 7.5% per annum from the date of petition till the date of such deposit, within a period of six weeks from the date of receipt of a copy of this Judgment.

10. If the 2nd respondent Insurance Company has not deposited the compensation 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.

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

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

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To:

1.The Additional District Judge,
Motor Accident Claims Tribunal,
(IV Fast Track Court),
Chennai.

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

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