

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3743 of 2012

(Through Video Conferencing)

C.V.Selvaraj ... Appellant/Petitioner

Vs.

1. Narayanan

2. National Insurance Co. Ltd.,
No.751, Anna Salai,
Chennai 600 006. ...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the common Judgment and Decree in O.P.No.4499 of 1998 dated 09.12.2002 on the file of the V Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Mr.Ravindran for
Mr.A.Shanmugaraj
For Respondents : Mr.S.Vadivel R2
Ex-Parte R1

J U D G M E N T

With the consent of both the learned counsel for the Appellant and the learned counsel appearing for the Respondents, this Civil Miscellaneous Appeal is taken up for hearing and final disposal.

2.The Appellant herein was the Claimant before the Claims Tribunal in O.P.No.4499 of 1998 before the V Judge, Small Causes Court, Chennai.

3. The Appellant suffered fracture in right leg, cut injury in right leg, and multiple injuries as per the Claim Statement, dated 19.11.1997.

4. According to the Claimant, he was given treatment as an out-patient from 29.10.1997 till the date of Claim Statement on 19.11.1997. According to the Claimant, when he was riding a bicycle along M.C.Road from South to North, an Auto bearing

Registration No.TN 04 Y 3671, insured with the 2nd Respondent/Insurance Company, had hit him from behind, as a result of which, he suffered the above injuries and subsequently his fingers were amputated.

5. The Tribunal, after considering the evidence on record of the case and the deposition of the Doctor, who was examined as P.W.2, concluded that, there was 45% disability and hence, the Appellant was awarded a sum of Rs.39,700/- as compensation.

6. It is contended by the learned counsel for the Appellant that, as per Ex.P.7-Disability Certificate, the disability sustained by the Claimant is 45% and therefore, the Tribunal ought to have awarded a higher amount towards disability. Likewise, the compensation awarded under the conventional heads also appears to be less, when compared to the injuries suffered by the Appellant.

7. To substantiate his claim, the learned counsel for the Appellant relied on a decision of this Court rendered in the case of Metropolitan Transport Corporation, (Chennai) Ltd. Vs. Melvin Jothi Joshua reported in 2008 (2) TN MAC 594.

8. The learned counsel appearing for the second respondent/Insurance Company submitted that, the Award passed by the Tribunal is well-reasoned and requires no interference.

9. I have considered the arguments advanced by the learned counsel for the Appellant and the 2nd Respondent.

10. In this appeal, the Appellant seeks enhancement of compensation over and above the amount claimed in the Claim Petition. Today, the learned counsel for the Appellant submitted a gross calculation or enhancement of compensation under various heads, totaling to Rs.1,90,300/-. However, the amount which is sought to be claimed by the Appellant appears on the higher side. Considering the above facts and circumstances, that the Appellant had suffered disability and injuries, I am inclined to modify the compensation awarded by the Tribunal, by awarding the following amounts:

Heads	Compensation awarded by the Tribunal	Compensation claimed	Compensation awarded by this Court
Loss of Income (Treatment period)	Rs.5,000/-	Rs.15,000/-	Rs. 7,500/-
Transport Expenses	Rs.1,000/-	Rs.15,000/-	Rs. 2,500/-

Heads	Compensation awarded by the Tribunal	Compensation claimed	Compensation awarded by this Court
Extra Nourishment	Rs. 400/-	Rs. 5,000/-	Rs. 5,000/-
Damage to Cycle	RS. 300/-	Rs. 300/-	Rs. 300/-
Medical Expenses	Rs.3,000/-	Rs. 5,000/-	Rs. 3,000/-
Pain and Suffering	Rs.5,000/-	Rs. 40,000/-	Rs.20,000/-
Disability	Rs.25,000/-	Rs.90,000/-	Rs.50,000/-
Loss of amenities	---	Rs.10,000/-	Rs.10,000/-
Attender charges	---	Rs.10,000/-	Rs. 3,000/-
Total	Rs.39,700/-	Rs.1,90,300/-	Rs.1,01,300/-

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed, enhancing the compensation to Rs.1,01,300/- and the 2nd Respondent/ Insurance Company shall deposit the enhanced compensation along with interest at the rate of 7.5% per annum, from the date of filing the Claim Petition till the date of deposit before the Tribunal. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(jas)

To:

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

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

+1 cc to Mr.S.Vadivel, Advocate Sr.No. 25902

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NMI (CO)

RMP (15/04/2021)