

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.02.2020

CORAM:

THE HONOURABLE Mrs Justice V.BHAVANI SUBBAROYAN

C.M.A.No.2870 of 2013

Arokiasamy

...Appellant/Petitioner

Vs.

1.V.Radha Krishnan
(set ex-parte in Tribunal)

2.The National Insurance Co. Ltd.,
TP HUB, III Floor,
No.751, Anna Salai,
Chennai-600 002.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree of the Motor Accident Claims Tribunal (V Small Causes Court), Chennai in M.C.O.P.No.4943 of 2012 dated 29.04.2013.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent-2 : Mr.D.Bhaskaran

:R1- Exparte

JUDGMENT

Being dissatisfied with the award, the present appeal has been filed by the appellant/claimant for enhancement of compensation awarded in M.C.O.P.No.4943 of 2012 dated 29.04.2013 by the learned V Judge, Small Causes Court (MACT), Chennai.

2.The germane facts which leads to the filing of the present appeal is as follows:

a)On 24.09.2012, at about 22.00 hours, while the appellant along with two others were travelling in the Auto bearing registration No.N-02-AH-9214 from Koyambedu to Manali, when they are at Madhavaram Bridge near Samsung godown, due to the rash and negligent driving of the auto driver, the auto dashed against the centre median of the road, causing grievous injuries to the appellant and others.

b)The Tribunal, after analysing the oral and documentary evidence, has held that the accident had occurred only due to the rash and negligent driving of the driver of the first respondent and further held that since the vehicle was insured with the second respondent herein, the second respondent was duly liable to pay the compensation to the claimant/appellant.

c)The learned V Judge, Small Causes Court (Motor Accident Claims Tribunal), Chennai had passed the following award on 29.04.2013:-

Heads	Amount awarded
Loss of earning	Rs.15,000/-
Transportation	Rs.10,000/-
Extra Nourishment	Rs.10,000/-
Damage to clothes	Rs.1,000/-
Medical expenses	Rs.29,245/-
Permanent Disability	Rs.1,10,000/-
Pain and sufferings	Rs.25,000
Total	Rs.2,00,245/-

Thus, directing the second respondent herein to pay the appellant a sum of Rs.2,00,245/- together with interest at 7.5% from the date of claim till the date of realization as compensation.

3.Aggrrieved by the quantum of compensation awarded by the Tribunal, the present appeal has been filed by the appellant seeking enhancement of compensation.

4.Heard Mr.K.Varadha Kamaraj, learned counsel for the appellant and Mr.D.Bhaskaran, learned Counsel appearing on behalf of the second respondent/Insurance Company.

5.According to the learned counsel for the appellant, the Tribunal had erred in awarding the compensation without taking into consideration of the injuries sustained and treatment taken by the appellant as in-patient as well as out-patient. She submitted that Tribunal has fixed only Rs.15,000/- as monthly income which is erroneous as per Ex.P7/pay slip which evidences

that the appellant was drawing a sum of Rs.35,000/- per month. She also contended as per P.W.4/Doctor, disability has been assessed at 65% but Tribunal has fixed the disability at 55% and also awarded only a sum of Rs.2000/- per percentage, without considering the nature of injuries sustained by the appellant. She further stated that the amount awarded by the Tribunal towards pain and sufferings needs interference. Thus, the learned counsel pleaded that the compensation awarded by the Tribunal warrants interference.

6.Per contra, the learned counsel appearing on behalf of the second respondent submits that the compensation awarded by the Tribunal is just and reasonable and warrants no interference.

7.This Court after having considered the materials available on record, having examined the impugned award and having heard the submissions of the respective Counsels, is of the view that the compensation awarded by the Tribunal is just and reasonable and hence, not inclined to interfere with the same. However, taking into consideration of the judgment of the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Shethi and Others reported in 2017 (6) SCC 680, this Court is of the considered opinion in view of the injuries sustained, the compensation has to be enhanced under the head viz., pain & sufferings. Accordingly, the amount awarded by the Tribunal under the said head is enhanced from Rs.25,000/- to Rs.30,000/-. In view of the submission made by the learned counsel for the appellant in regard to the nature of injuries sustained, Rs.3000/- per percentage has been fixed, which arrives at Rs.1,65,000/- and also taking note of Ex.P7, a sum of Rs.30,000/- is granted towards loss of earning. Thus, the compensation awarded by the Tribunal is enhanced to a sum of Rs.2,75,245/- from Rs.2,00,245/- The details of the modified award amount is as follows:

Heads	Amount awarded by the Tribunal	Amount Awarded by this Court	Award confirmed or enhanced or granted
Loss of earning (during treatment period)	Rs.15,000/-	Rs.30,000/-	enhanced
Transportation	Rs.10,000/-	Rs.10,000/-	confirmed

Heads	Amount awarded by the Tribunal	Amount Awarded by this Court	Award confirmed or enhanced or granted
Extra Nourishment	Rs.10,000/-	Rs.10,000/-	confirmed
Medical expenses	Rs.29,245/-	Rs.29,245/-	confirmed
Pain and Sufferings	Rs.25,000/-	Rs.30,000/-	enhanced
Permanent Disability-55%	Rs.1,10,000/- (Rs.2000/- per percentage)	Rs.1,65,000/- (Rs.3000/- per percentage)	enhanced
Damage to clothes	Rs.1000	Rs.1,000/-	confirmed
Total	Rs.2,00,245/-	Rs.2,75,245/-	Enhanced by Rs.75,000/-

8.In the result, the Civil Miscellaneous Appeal is partly allowed and the award dated 29.04.2013, passed by the learned V Judge, Small Causes Court (MACT), Chennai in M.C.O.P.No.4943 of 2012, is hereby enhanced from Rs.2,00,245/- to Rs.2,75,245/-. The second respondent herein is directed to deposit the enhanced amount to the credit of M.C.O.P.No.4943 of 2012, on the file of the Motor Accident Claims Tribunal (V Judge, Small Causes Court) Chennai, together with interest 7.5% per annum from the date of claim till the date of deposit within a period of two weeks from the date of receipt of this order. On such deposit being made, the appellant is permitted to withdraw the said sum by filing an appropriate application. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

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

2.The Section Officer,
Vernacular Records Section,
Madras High Court.

+1cc to Mr.K.Varadhakamaraj, Advocate Sr.11063
+1cc to Mr.D.Bhaskaran, Advocate Sr.10453

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