

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.02.2020

CORAM:

THE HONOURABLE Mrs Justice V.BHAVANI SUBBAROYAN

C.M.A.No.2880 of 2013

K.Rajendran

...Appellant

Vs.

1.A.Pattabiraman
(set ex-parte in Tribunal)

2.The National Insurance Co. Ltd.,
having their Branch Office at
No.661, Trunk Road, Poonamallee,
Chennai-56,
Tiruvallore District.

...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 (III Additional District Court), Poonamallee in M.C.O.P.No.462 of 2008 dated 14.03.2013.

For Appellant : Mrs.Y.Jayanthi Bhaskar
for Mr.J.Mahalilingam

For Respondent-2 : Mr.D.Bhaskaran

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.462 of 2008 dated 14.03.2013 by the learned III Additional District Judge (MACT), Poonamallee.

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

a)On 05.10.2005, at about 10.15 a.m., when the appellant was riding his motor cycle bearing Registration No.TN 10 L 2091 towards 11th avenue, Ashok Nagar, Chennai, a lorry bearing Registration No.TN 37 P 6399 belonging to the first respondent insured with the second respondent, which was driven in a rash and negligent manner, hit behind the motor cycle, due to which, the appellant sustained grievous injuries.

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 lorry/vehicle was insured with the second respondent herein, the second respondent was duly liable to pay the compensation to the claimant.

c)The learned III Additional District Judge, Motor Accident Claims Tribunal, Poonamallee had passed the following award on 14.03.2013:-

Heads	Amount awarded
Loss of earning (2 months treatment period)	Rs.10,000/-
Transportation	Rs.4,000/-
Extra Nourishment	Rs.3,000/-
Medical Bills	Rs.1,500/-
Pain and sufferings	Rs.30,000/-
Permanent Disability	Rs.90,000
Total	Rs.1,38,500/-

Thus, directing the second respondent herein to pay the appellant a sum of Rs.1,38,500/- 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 Mrs.Y.Jayanthi Bhaskar, 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 and future medical expenses. She submitted that Tribunal has not awarded any amount towards future loss of earning by adopting multiplier method as the appellant sustained grievous injuries such as fracture of superior and inferior pubic rami and multiple

injuries etc., and also awarded only a sum of Rs.1,500/- towards medical expenses. She further contended that no amount has been granted for attendant benefits and loss of earning capacity. Thus, 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 even though the compensation awarded by the Tribunal is reasonable, 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 that the compensation has to be enhanced under the heads viz., transportation, loss of earning during treatment period and pain & sufferings. Accordingly, the amount awarded by the Tribunal under the said heads are enhanced from Rs.4000/- to Rs.10,000/-, Rs.10,000/- to Rs.25,000/- and from Rs.30,000/- to Rs.40,000/- respectively. In view of the submission made by the learned counsel for the appellant in regard to medical attendance and loss of amenities, considering the nature of injuries sustained, a sum of Rs.5,000/- and Rs.20,000/- respectively are granted under the said heads. Thus, the compensation awarded by the Tribunal is enhanced to a sum of Rs.1,94,300/- from Rs.1,38,500/-. 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.10,000/-	Rs.25,000/-	enhanced
Transportation	Rs.4,000/-	Rs.10,000/-	enhanced
Extra Nourishment	Rs.3,000/-	Rs.3,000/-	confirmed

Heads	Amount awarded by the Tribunal	Amount Awarded by this Court	Award confirmed or enhanced or granted
Medical expenses	Rs.1,500/-	Rs.1,500/-	confirmed
Pain and Sufferings	Rs.30,000/-	Rs.40,000/-	enhanced
Permanent Disability	Rs.90,000/-	Rs.90,000/-	confirmed
Attendant Benefits	-	Rs.5,000/-	granted
Loss of Amenities	-	Rs.20,000/-	granted
Total	Rs.1,38,500/-	Rs.1,94,500/-	Enhanced by Rs.56,000/-

8. In the result, the Civil Miscellaneous Appeal is partly allowed and the award dated 14.03.2013, passed by the learned III Additional District Judge (MACT), Poonamallee in M.C.O.P.No.462 of 2008, is hereby enhanced from Rs.1,38,500/- to Rs.1,94,500/-. The second respondent herein is directed to deposit the enhanced amount to the credit of M.C.O.P.No.462 of 2008, on the file of the Motor Accident Claims Tribunal (III Additional District Court) Poonamallee, together with interest 7.5% per annum from the date of claim till the date of deposit within a period of one week 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.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

DP

To

1. The Motor Accident Claims Tribunal,
(III Additional District Court) Poonamallee.

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

+1 CC to Mr.D.Bhaskaran, Advocate sr 10452.

C.M.A.No.2880 of 2013

SPD(CO)
SP(14/12/2020)



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