

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.783 of 2012

National Insurance Company,
No.74A, Paramathu Road,
Namakkal.

.. Appellant/2nd Respondent

..Vs..

1.M.Jinu Anand .. 1st Respondent/Petitioner
2.S.Periyasamy ..2nd Respondent/1st Respondent
(2nd respondent herein was set ex-parte
before the lower Court)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 21.09.2011, in M.C.O.P.No.874 of 2003, on file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Namakkal.

For Appellant : Mr.K.Padmanabhan

For Respondents : Mr.C.Thangaraju for R1
: R2-Ex-parte before the tribunal

JUDGMENT

The appellant is the National Insurance Company Limited, Namakkal. The first respondent/claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 in M.C.O.P.No.874 of 2003 before the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Namakkal seeking compensation of Rs.20,00,000/- for the injuries sustained by him in a road accident that took place on 19.08.2003.

2.The brief case of the first respondent/claimant is as follows:

On 19.08.2003 at about 14.00 hours at Singilipatty Bridge, Velagoundampatty, the claimant was travelling as a pillion rider in a Suzuki Motor Cycle bearing Regn.No.KL-9-D-1192, driven by one Vinith and at that time, a LMV 3 wheeler goods vehicle bearing Regn.No.TN-34-A-1848, which is owned by the second respondent driven by its driver in a rash and negligent manner, hit against the above said vehicle. Due to the said incident,

the claimant was thrown-out from the above said Suzuki Motor cycle and sustained grievous injuries all over his body.

3. According to the first respondent/claimant, the rash and negligent driving of the driver of LMV 3 Wheeler goods vehicle bearing Registration No. TN-34-A-1848 was the cause of the accident and that since the said vehicle was insured with National Insurance Company Limited, Namakkal, both of them are jointly and severally liable to pay compensation to him.

4. The Tribunal, considering the oral and documentary evidences, has awarded a compensation of Rs.8,02,021/-. Aggrieved against that order, the present appeal is filed by the National Insurance Company Limited, Namakkal, questioning the quantum of compensation.

5. The learned counsel for the appellant would submit that the award passed by the Tribunal clearly shows that the Tribunal has considered various aspects before awarding a sum of Rs.8,02,021/- to the first respondent/claimant for injuries sustained by him in a road accident that took place on 19.08.2003 and by any such imagination, it can be said to be on the higher side.

6. Per contra, the learned counsel appearing for the 1st respondent contended that, since in the present case, the accident took place only in the year 2010, awarding a sum of Rs.8,02,021/- is very reasonable and hence, there is no need to interfere with the same.

7. Heard the learned counsel for the appellant and the learned counsel appearing for the first respondent and perused the materials available on record.

8. It is seen that the claimant was engaged in data entry job in Freeland Software Company at Bangalore as part time job and was earning upto Rs.7,000/- per month. But, without any documentary evidence to substantiate the same, the Tribunal has fixed Rs.4,500/- as notional income. The injured is aged about 20 years at the time of accident, so the relevant multiplier is 16. Accordingly, his loss of income was worked out by the Tribunal and the same is on the higher side, as follows:

Monthly notional Income = Rs.4,500/-
Annual notional Income = Rs.4,500/- X 12
= Rs.54,000/-
The multiplier is = 16
Total amount is = Rs.54,000/- X 16
= Rs.8,64,000/-
Disability is 45%

Loss of income = Rs.8,64,000/- X 45/100
= Rs.3,88,800/-

Since there is no documentary evidence to substantiate the income of the claimant, this Court is inclined to fix his notional monthly income as Rs.3,000/- and reduce the compensation to a sum of Rs.2,91,600/- (3000 X 12 X 16 X 45% =2,91,600/-). The Tribunal has awarded a sum of Rs.16,736/- towards "Transportation". The same is very reasonable and hereby confirmed. The Tribunal has awarded a sum of Rs.10,000/- towards "Extra Nourishment", which is also hereby confirmed. The Tribunal has awarded a sum of Rs.25,000/- towards "pain and sufferings", which is just and reasonable and confirmed hereby. After considering the medical bills and receipts, the Tribunal has awarded a sum of Rs.3,61,485/- towards "medical expenses". The same is correct and this Court is not inclined to interfere with the same. The Tribunal did not award any amount towards "attender charges". Hence, this Court is inclined to award a sum of Rs.20,000/- for the same. The compensation awarded to the claimant under different heads is extracted hereunder:

S.No.	Head	Amount granted
1.	Loss of income	Rs.2,91,600/-
2.	Medical expenses	Rs.3,61,485/-
3.	Pain and sufferings	Rs.25,000/-
4.	Extra nourishment	Rs.10,000/-
5.	Transportation	Rs.16,736/-
6.	Attender charges	Rs.20,000/-
	Total	Rs.7,24,821/-

9. Thus, the claimant in M.C.O.P.No.874 of 2003 is entitled to a sum of Rs.7,24,821/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The Tribunal's award of compensation Rs.8,02,021/- is hereby reduced to Rs.7,24,821/-.

10. In the result,

(i)The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii)The compensation awarded by the tribunal is reduced from Rs.8,02,021/- to Rs.7,24,821/-.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn

To

1.The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate,
Namakkal.

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

+3ccs to Mr.C.Thangaraju, Advocate, Sr.No. 9376

C.M.A.No.783 of 2012

LN (CO)
RMP (25/01/2021)



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