

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.842 of 2013

P.Aranganathan ... Appellant/Claimant

Versus

1. P. Manikam
2. M/s. National Insurance Co. Ltd.,
Rep. by its Branch Manager,
Vigneshwara Building,
Near Membalam,
No.4/7, Pudukottai Road,
Trichy. Respondents/ Respondents

Pzrayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 19.10.2011 made in MCOP No.160 of 2006 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate) Nagapattinam District for enhancement of compensation.

For Appellant : Mr.Sriram
for
Mr.Govi Ganesan
For Respondents : Mr.J.Chandran for R2
R1 - Served - No appearance

JUDGMENT

(This appeal was taken up for hearing through Video conferencing)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 19.10.11 passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Nagapattinam in MCOP No160 of 2006.

2. The appellant / claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award has filed this appeal seeking enhancement.

3. The details of the compensation awarded under the impugned award are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Injuries	25,000.00
Pain and suffering	3,000.00
Extra nourishment	3,000.00
Stander help	3,000.00
Damage of cloths and articles	1,000.00
Medical bills, as per Ex.P8 and Ex.P7	10,770.20
Transport, as per Ex.P6	6,000.00
Total	51,770.20
R/off	52,000.00

4. Heard Mr.Sriram, learned counsel for the appellant and Mr.J.Chandran, learned counsel for the second respondent. Despite service of notice on the first respondent, there is no representation on his side.

5. This Court has perused the materials and evidence available on record before the Tribunal.

6. Before the Tribunal, the appellant has filed eight documents which were marked as Exs.P1 to P8 and one witness was examined on his side viz., the appellant/claimant himself as PW1. On the side of the respondents one witness was examined as RW1 and no document was filed on their side before the Tribunal.

7. The appellant sustained injuries on 14.03.2003 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent. The adverse finding of negligence as regards the driver of the vehicle insured with the second respondent has now become final, since no appeal has been filed by the second respondent / Insurance Company challenging the said finding.

8. The only question that arises for consideration in this appeal is whether the quantum of compensation awarded by the Tribunal needs to be enhanced or not. The contention of the appellant / claimant, as seen from the claim petition, which has also been taken note of by the Tribunal is that he sustained laceration on the right forehead and he has also sustained injuries on his eyes and on account of the same, he had to loose his right eye sight. However, the appellant /

claimant failed to examine the Doctor as a witness on his side and the disability certificate was also not marked as an exhibit. Since, the contention of the appellant / claimant with regard to the nature of his injuries was not supported by the documentary evidence, the Tribunal has awarded a lesser compensation.

9. The accident register with medico legal opinion of TMCH (Thanjavur Medical College hospital) Ex.P2 reveals that the appellant / claimant took treatment in the said hospital between 14.03.2003 to 15.03.2003 and xrays of orbit of both eyes of the appellant/claimant and the root of his nose was taken during the period of treatment. The Tribunal has observed under the impugned award that there is no dispute that due to the accident, the appellant sustained injuries on his eyes and thereby has lost his right eye sight. However, as observed earlier, the Tribunal has not awarded the higher compensation in view of the fact that the appellant / claimant has neither produced any disability certificate or discharge summary from the hospital nor has he examined the Doctor who examined him as a witness before the Tribunal. The Tribunal has awarded a total compensation of Rs.52,000/- to the appellant / claimant as indicated earlier, which in the considered view of this Court has to be enhanced to some extent though not as claimed by the appellant in this appeal.

10. Insofar as the compensation awarded by the Tribunal under the heads a) injuries, b) Extra nourishment, c) Stander help, d) Damage of clothes and articles, e) Medical bills and transport are concerned, the same is a just compensation in the considered view of this Court. Excepting for some enhancement under the head, Pain and suffering, the appellant / claimant is not entitled for any enhancement in respect of other heads of compensation awarded by the Tribunal as no evidence was placed before the Tribunal for higher compensation. This Court after giving due consideration to the nature of the injuries sustained by the appellant / claimant enhances the compensation towards pain and suffering granted to the appellant/claimant from Rs.3,000/- to Rs.10,000.

11. The Tribunal has also failed to award any compensation towards loss of amenities, which he is legally entitled to in view of the nature of injuries sustained by the appellant / claimant and as per settled law. Accordingly, a sum of Rs.5,000/- is awarded as compensation to the appellant / claimant under the head loss of amenities. The restricted compensation is awarded by this Court in view of the fact that the appellant / claimant has not produced any supporting oral and documentary evidence to substantiate his claim for a higher compensation.

12. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is modified in the following manner:

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Injuries	25,000.00	25,000.00
Pain and suffering	3,000.00	10,000.00
Extra nourishment	3,000.00	3,000.00
Stander help	3,000.00	3,000.00
Damage of cloths and articles	1,000.00	1,000.00
Medical bills, as per Ex.P8 and Ex.P7	10,770.20	10,770.20
Transport, as per Ex.P6	6,000.00	6,000.00
Loss of amenities	-	5,000.00
Total	51,770.20	63,770.20
R/off	52,000.00	64,000.00

13. In the result, this appeal filed by the Appellant / claimant stands partly allowed by enhancing the compensation from 52,000/- to Rs.64,000/-. No costs.

14. The second respondent / Insurance Company is directed to deposit the entire award amount awarded by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.160 of 2006, on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate, Nagapattinam), within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant /claimant, through RTGS, within a period of two weeks thereafter. The requisite Court fee, if any has to be paid by the appellant before receiving the copy of this Judgment.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Chief Judicial Magistrate,
Nagapattinam District.

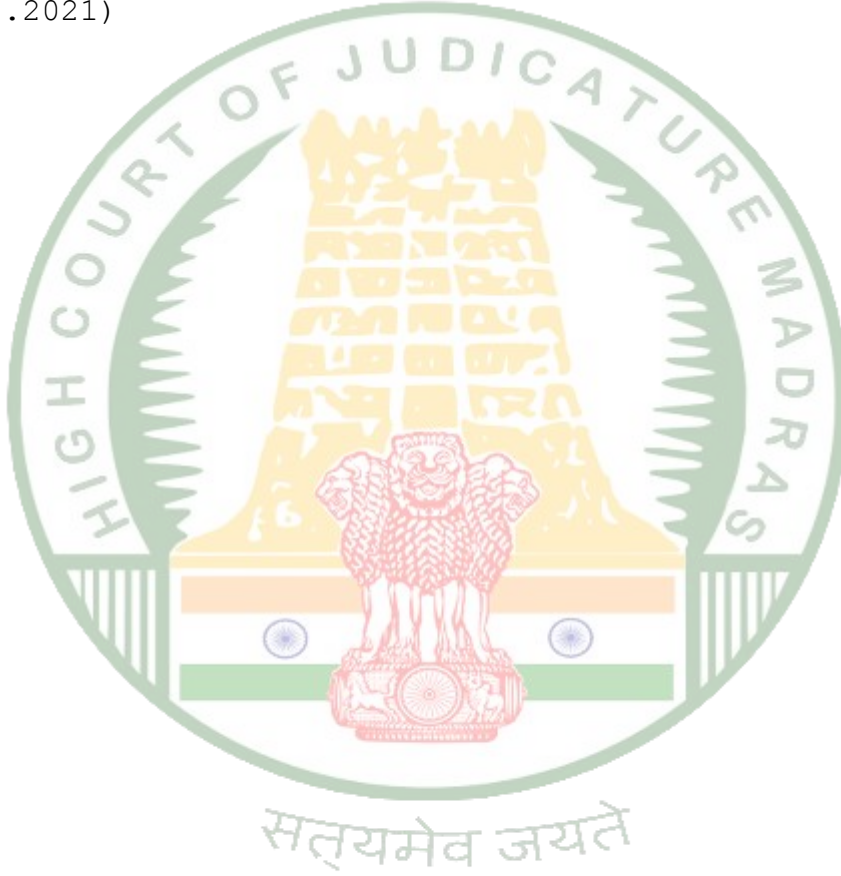
2.The Section Officer,
V.R. Section, High Court of Madras, Chennai - 104.

+lcc to Mr.J.Chandran , Advocate SR.No. 26018

+lcc to Mr.K.Govi Ganesan, Advocate SR.No. 26159

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A.SK(06.01.2021)



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