

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05..11..2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CIVIL MISCELLANEOUS APPEAL NO.1593 OF 2020

M.Balakrishnan

... Appellant/
Petitioner

-Versus-

1. G.Abdul Kalam

2. United India Insurance Co. Ltd.,
135, Silingi Building,
No.134, Greams Road,
Chennai 600 006.

... Respondents/
Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order and decree dated 12.11.2019 made in M.C.O.P.No.3239 of 2015 by the Motor Accidents Claims Tribunal [III Court of Small Causes], Chennai.

For Appellant : Mr.S.Ravikumar

For Respondents : Mr.J.Chandran for R2

No Appearance for R1

JUDGEMENT

The injured claimant is the appellant. Not being satisfied with the award passed by the Motor Accidents Claims Tribunal (III Court of Small Causes), Chennai, the claimant is before this court with the present Civil Miscellaneous Appeal.

2. According to the appellant, on 02.03.2015 at about 06.15 p.m. when he was riding his motor cycle bearing registration number TN 05 AJ 7583 from East to West on Paper Mills Road, near Indian Bank ATM, a share auto belonging to the 1st respondent bearing Registration Number TN 04 T 8640 which was driven by its driver in a rash and negligent manner hit against his motor cycle in which he sustained serious injuries. Hence, claiming compensation of Rs.10,00,000/- from the respondent, he filed the claim petition.

3. The 1st respondent/insured remained absent and therefore, he was set ex parte by the tribunal. The 2nd respondent/Insurer contested the claim petition inter alia contending that the accident was taken place due to the rash and negligent riding of the appellant and therefore, he is not entitled for any compensation. It is further contended by the 2nd respondent that the appellant did not sustain any serious injuries and the alleged injured were only simple in nature. The 2nd respondent disputed the avocation and the monthly income of the appellant besides medical expenses said to have been incurred by the appellant.

4. Before the tribunal, in order to prove his case, the appellant examined himself as P.W.1 and marked as many as 9 documents as Exs.P.1 to P.9. On the side of the respondents, none was examined and no document was marked. On considering the available materials the tribunal has held that the accident was taken place due to the rash and negligent driving of the driver of the 1st respondent's autorickshaw and therefore, the respondents 1 and 2 are liable to pay compensation to the appellant. So far as the quantum, the tribunal has come to a conclusion that the appellant had sustained only simple injuries and the medical board had also given a certificate that the appellant did not suffer any disability. As far as future treatment is concerned, holding that there was no evidence, the tribunal has refused to accept the contention of the appellant in this regard. However, the tribunal awarded lump sum of Rs.25,000/- as compensation. Being aggrieved by the inadequacy of the compensation, the claimant has come forward with the present appeal.

5. The learned counsel for the appellant submitted that in the road accident, the appellant had suffered fracture on his left shoulder bone. He was admitted in the hospital and was taking treatment as in patient. The extract of the accident register produced by the appellant would amply show that there was a fracture on the left shoulder bone of the appellant. However, the tribunal has totally failed to consider this aspect of the matter and has awarded only a lump sum of Rs.25,000/- as compensation.

6. The learned counsel appearing for the 2nd respondent submitted that the injuries sustained by the appellant were only simple in nature. In the accident register, there was no mention about the fracture. On assessing the injuries sustained by the appellant, the medical board had given a certificate to the effect that there was no disability suffered by the appellant. Therefore, no infirmity could be attached to the award passed by the tribunal granting lump sum and the appeal deserves only to be dismissed.

7. I have considered the rival submissions carefully.

8. It is the case of appellant that in the accident he had suffered a fracture on his left shoulder bone. In order to substantiate the same, the appellant relied on the accident register Ex.P.2 issued by one Abhijay Hospital (P) Limited, Perambur, Chennai. A careful perusal of the same would go to show that though X-Ray was taken, there is nothing to say that the appellant had sustained any fracture. That apart, the appellant was not even admitted in the hospital and on the same day he was discharged. Apart from Ex.P.2, there is no other evidence to show that the appellant had sustained fracture on his left shoulder bone. Further, the medical bills produced by the appellant under Ex.P.4 would show that he had incurred only a sum of Rs.756/- towards medical expenses. Pending claim petition, when the appellant was referred to the medical board for the assessment of disability due to the injuries sustained in the accident, the board had issued a certificate opining that the appellant did not suffer any disability. Considering all these aspects of the matter, the tribunal has come to the conclusion that the injuries sustained by the appellant were only minor and awarded a lump sum of Rs.25,000/- as compensation.

9. This court has gone through evidence adduced by the appellant. As rightly concluded by the tribunal, there is nothing on record to that the appellant had sustained fracture on his left shoulder bone. The injuries sustained by the appellant were also minor and he did not suffer any disability due to such injuries. Therefore, this court does not find any infirmity in the order passed by the tribunal granting a lump sum of Rs.25,000/- to the appellant and it does not require any enhancement for want of sufficient evidence. Thus, the appeal deserves only to be dismissed.

In the result, this civil miscellaneous appeal is dismissed and the award passed by the tribunal stands confirmed. Considering the facts and circumstances of the case, shall bear their respective costs in this appeal.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kmk

To

1. The III Court of Small Causes
[Motor Accidents Claims Tribunal],
Chennai-600104.

Copy To

The Section Officer,
VR Section, High Court,
Madras - 600 104.

+1cc to Mr.S.Ravikumar, Advocate, S.R.No.35794

+1cc to Mr.J.Chandran, Advocate, S.R.No.36015

C.M.A.No.1593 of 2020

AD(CO)
CS/05/05/2021



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