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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.11.2020

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Miscellaneous Appeal No.3720 of 2019

Veeramalai @ Veeramani

...Appellant/Petitioner

-Versus-

1.R.Gowrish

2.Reliance General Insurance Company Limited,
Shri Lakshmi Complex,
1st Floor, Bharathi Street,
Omalur Main Road,
Salem District.

...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order and decree dated 07.02.2018 made in M.C.O.P.No.2486 of 2015 by the Motor Accident Claims Tribunal (Special Subordinate Judge-I), Salem.

For Appellant

: Mr.C.Thangaraju

For Respondents

: M/s.C.Bhuvanasundari for R2

No Appearance for R1

JUDGEMENT

Feeling aggrieved by the inadequacy of the compensation awarded by the Motor Accidents Claims Tribunal, Salem, the injured claimant is before this court with the instant appeal.

2. The case of the appellant before the tribunal is that, on 19.09.2015 at 05.30 p.m. while he was walking along Vagurampatty Pirivu road to Namakkal Main Road, a two wheeler bearing Regn. No. TN 28 AQ 2836, belonging to the 1st respondent insured with the 2nd respondent, which was ridden in a rash and negligent manner dashed against him as a result of which he suffered multiple injuries all over the body. He was immediately admitted at Government Hospital in Namakkal and taking



treatment. He was a coolie. Due to the accident, he suffered disability and as such he could not do his coolie work as before. Hence, he filed the claim petition seeking a sum of Rs.29,15,000/- as compensation from the respondents.

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3. The 1st respondent, owner of the two wheeler, was remained absent before the tribunal and therefore, he was set ex parte. The 2nd respondent insurance company contested the claim petition on the ground that the accident was taken place due to the negligence of the injured for which the 2nd respondent insurance company need not pay any compensation. That apart, the claimant did not suffer any serious injury and there was no permanent disability suffered by him warranting compensation as claimed in the petition. The compensation claimed under various heads are exorbitant and baseless.

4. In order to prove his case before the tribunal, the appellant/claimant examined himself as P.W.1 and marked 4 documents as Exs.P.1 to P.4. Though no one was examined on the side of the respondents, the 2nd respondent adduced 2 documentary evidence on its side which were marked as Ex.R.1 and Ex.R.2. After considering the available materials, the tribunal came to a conclusion that at the time of accident, the rider of the two wheeler did not possess a valid license to drive the motor cycle. The tribunal further held the appellant did not suffer any disability on account of the injuries sustained in the accident and the injuries sustained by him were also not serious. Concluding so, the tribunal awarded a sum of Rs.20,000/- towards pain and sufferings and a sum of Rs.36,121/- towards medical expenses already incurred by the appellant and in all, the tribunal awarded a sum of Rs.56,121/- as compensation to the appellant. However, on the ground that there is a violation of condition of insurance policy as the rider of the two wheeler did not possess a valid driving license at the time of accident, the tribunal, fixed the liability on the owner of the motor cycle. Yet, the tribunal directed insurance company to pay the compensation at first to the appellant and recover the same from the 1st respondent (owner). Not feeling satisfied with the quantum of the compensation, the claimant is before this court with the present appeal.

5. I have heard the learned counsel for the appellant and the learned counsel appearing for the 2nd respondent and also perused the records carefully.

6. A careful perusal of the records, more particularly, Ex.P.2, wound certificate would show that the appellant suffered head injury in the road accident and there was also hemorrhage. After the accident, he was immediately admitted to the Government Hospital at Namakkal where he had taken treatment for



one week. Even though no disability was assessed by the medical board, the fact remains that the appellant suffered head injury and he would have undergone pain and agony. The tribunal has awarded a sum of Rs.20,000/- towards paid and suffering which in the considered opinion of this court is required to be enhanced reasonably. Accordingly, a sum of Rs.40,000/- is granted towards pain and suffering as against the amount of Rs.20,000/- awarded by the tribunal under the head.

7. The appellant was a collie. He was bed ridden on account of the injuries sustained in the road accident for a long time. Thus, in the considered opinion of this court, awarding a sum of Rs.25,000/- towards loss of income would be just and reasonable. Apart from the above, a sum of Rs.5,000/- is awarded towards transport charges. So far as the medical expenses is concerned, the tribunal has awarded a sum of Rs.36,121/- based on actual bills and receipts. Therefore, it does not require any interference. Thus, the compensation awarded by the Tribunal under different heads are modified as follows:-

Serial Number	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced (Rs.)
1.	Pain and Sufferings	20,000	40,000	Enhanced
2.	Medical Expenses	36,121	36,121	Confirmed
3.	Loss of Income	-	25,000	Granted
4.	Transport Charges	-	5,000	Granted
	Total	56,121	1,06,121	Enhanced by Rs.50,000/-

In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.56,121/- awarded by the Tribunal is hereby enhanced to Rs.1,06,121/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent is directed to deposit the award amount directed above along with interest and costs ordered by the tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. After depositing the award amount, the 2nd respondent



Insurance Company is at liberty to recover the same from the insured/1st respondent herein in the manner known to law. Considering the facts and circumstances of the case, both parties shall bear their own costs in this appeal.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmk

To

The Special Subordinate Judge-I
(Motor Accident Claims Tribunal),
Salem.

+2ccs to Mr.C.Thangaraju, Advocate SR. No.36683
+1cc to M/s.C.Bhuvanasundari, Advocate SR. No.36554

C.M.A.No.3720 of 2019

AD (CO)
PR (16/02/2022)