

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.3235 of 2019

Govintharaj

.. Appellant/Petitioners

vs.

1.The Salem District Consumer Co-Op.,
Wholesale Stores Ltd.,
9, Seetharaman Road, Salem - 636 009.

2.The National Insurance Co., Ltd.,
2nd Floor, Maruti Complex, F-215,
Omalar Main Road, PB No.27,
Salem - 636 004.

3.Sridharan

4.The United India Insurance Co., Ltd.,
19/2A, Junction Main Road,
Salem - 636 004.

.. Respondents/Respondents

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in MCOP.No.504 of 2018, dated 30.04.2019 on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge No-I, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : R1 - Mr.L.P.Shanmugasundaram
Special Government Pleader
(Co-operatives)

R2 - M/s.N.B.Surekha

R4 - Mr.C.Paranthaman

J U D G M E N T

The present Civil Miscellaneous Appeal on hand is preferred against the judgment and decree dated 30.04.2019 passed in M.C.O.P.No.504 of 2018 on the file of the Motor

Accidents Claims Tribunal, Special Subordinate Judge No-I, Salem.

2. The claimant is the appellant, seeking enhancement of compensation.

3. The learned counsel appearing on behalf of the appellant/claimant mainly contended that the appellant/claimant sustained grievous injuries and therefore, the quantum of compensation awarded by the Tribunal is inadequate. The accident occurred on 20.2.2017 at about 03.45 p.m. at Salem to Yercaud Mountain Road, 5th hairpin bend. Yercaud Police Station, Salem District registered a case in Crime No.41/2017 under Sections 279 and 337 of I.P.C.

4. The Tribunal adjudicated the issues with reference to the Claim Petition filed by the appellant. As far as the negligence aspect is concerned, the Tribunal made a finding that the lorry driver had driven the lorry in a rash and negligent manner and caused the accident. Therefore, the lorry driver is responsible and committed an act of negligence. With reference to the quantum of compensation, even as per the Claim Petition, the appellant/claimant was aged about 45 years and was working as a Watchman in a private place. He has stated his monthly income as Rs.9,000/-. The Tribunal considered all these aspects and granted compensation for Pain and Suffering, Loss of Income, Medical Expenses, Transport charges and for Nutrition and Nourishment.

5. The learned counsel for the appellant/claimant reiterated that the quantum of compensation fixed towards loss of income is meagre and the same is to be enhanced. This apart, it is contended that enhancement is to be made in respect of the other heads also.

6. The learned counsel appearing on behalf of the Insurance Company as well as the learned counsel for the 1st respondent opposed the contentions raised by the appellant by stating that the Tribunal has granted just compensation and no interference is required. The nature of injuries sustained by the appellant/claimant was not so grievous and therefore, the Tribunal has taken the disability as 15% as assessed by the Doctor and accordingly, granted a sum of Rs.45,000/- towards disability compensation. This apart, for Pain and Suffering, Rs.25,000/- is granted, towards loss of income, Rs.30,000/- is granted. For Medical Expenses, Rs.85,086/- is granted and therefore, the total compensation granted by the Tribunal is just and proper and therefore, there is no infirmity as such.

7. Considering the arguments, this Court is of the considered opinion that there is no dispute between the parties regarding the accident. This apart, there is no serious objections with reference to the negligence aspect. The appeal is filed, seeking enhancement of compensation mainly on the ground that the injuries sustained by the appellant/claimant are grievous and therefore, the Tribunal ought to have granted more compensation. The nature of injuries as well as the Disability Certificate issued by the Doctor reveal that the injuries sustained are not very serious, causing permanent disability. This apart, the Doctors have assessed the disability as 15%.

8. This being the factum, this Court is of the opinion that no further interference is required as the Tribunal has considered all these aspects including the disability and loss of income and accordingly, fixed the compensation, which is to be considered as just compensation.

9. Thus, this Court is not inclined to interfere with the findings of the Tribunal and accordingly, the Judgment and Decree dated 30.04.2019 made in M.C.O.P.No.504 of 2018 stands confirmed. Consequently, the Civil Miscellaneous Appeal in C.M.A.No.3235 of 2019 is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

Kak

To

The Motor Accident Claims Tribunal,
Special Subordinate Judge No-I, Salem.

Copy To

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

+1cc to Mr.L.P.Shanmugasundaram, Special Government Pleader
(Co-operatives) Advocate SR.No.28753

+1cc to M/s.N.B.Surekha, Advocate SR.No.28553

1cc to Mr.C.Paranthaman, Advocate SR.No.28626

CMA No.3235 of 2019

KJ(CO)
GMY(26/04/2021)



WEB COPY