

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

C.M.A. No. 1824 of 2017

Anthony

... Appellant/Petitioner

Versus

1.M/s.Vidhya Sagar Women's College,
GST Road, Vedanarayanapuram,
Chengalpet, Kanchipuram District.

2.Reliance General Insurance Co. Ltd.,
6th Floor, 6 Haddows Road,
Nungambakkam, Chennai - 34. ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.11.2016, in M.A.C.T.O.P. No.4026/2013 on the file of the II Judge, Motor Accidents Claims Tribunal, Small Causes Court, Chennai.

For Appellant : Ms. Ramya V.Rao
For Respondent : 1: Ex-parte
2: Ms. Bhuvaneswari

JUDGMENT

This appeal is preferred by the appellant who filed a claim petition for the injury suffered by him. As against the claim for a sum of Rs.40,00,000/-, the Tribunal has awarded a sum of Rs.4,85,000/- under the following heads:

1.Transportation, nourishing food and Miscellaneous expenditure	: Rs.50,000/-
2.Medical Expenses	: Rs.99,000/-
3.Future Medical Expenses	: Rs.20,000/-
4.Attender Charges	: Rs.20,000/-
5.Disability	: Rs.1,95,000/-
6.Loss of earning during the period of treatment	: Rs.26,000/-
7.Damages for pain, suffering and trauma	: Rs.50,000/-
8. Loss of future prospects and amenities	: Rs.25,000/-

Total Compensation is fixed at Rs.4,85,000/-

2. Learned counsel appearing for the appellant submitted that the Tribunal ought to have awarded compensation by adopting multiplier method and that a sum of Rs.10,00,000/- at least ought to have awarded towards compensation. Learned counsel submitted that the appellant was a driver by profession and sustained fracture / dislocation in his right shoulder, a fracture of right leg tibia and another fracture of left thumb. It is submitted that apart from other fractures and serious injuries, the Tribunal failed to consider the loss of income the appellant had suffered on account of the accident. The Tribunal after considering disability certificate which is marked as Ex.P.16 and other evidence, came to a conclusion that a sum of Rs.1,95,000/- should be allowed under the head of partial and permanent disability.

3. The Tribunal followed the judgment of this Court in the case of National Insurance Company Vs. G.Ramesh and another reported in 2013 (2) TNMSC 583 for fixing the amount by allowing Rs.3,000/- per percentage of disability. Apart from the compensation awarded under the head 'disability' the appellant was awarded a sum of Rs.99,000/- towards medical expenses and Rs.20,000/- towards future medical expenses. A sum of Rs.26,000/- was awarded towards loss of earning during the period of treatment. In all a sum of Rs.4,85,000/- was awarded even after fixing the disability at 65%. Learned counsel for the appellant is unable to demonstrate how the quantum fixed by the Tribunal namely a sum of Rs.4,85,000/- is on the lower side. There is no material to assess functional disability so that the proper multiplier can be adopted. Based on the available evidence, the Tribunal has awarded compensation under every head. No material irregularity or illegality is pointed out based on judicial precedents.

4. This Court, considering the overall facts and circumstances, is unable to find fault with the judgment of the Tribunal. This Civil Miscellaneous Appeal is devoid of merits and dismissed accordingly. No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1.The II Judge, Small Causes Court,
Chennai.(Motor Accidents Claims Tribunal)

2. The Section Officer,
VR Section, High Court, Madras.

+lcc to Mr.C.Bhuvanasundari, Advocate SR.No.41640

C.M.A. No.1824 of 2017

AD(CO)
GMY(11/05/2021)



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