

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2126 of 2017

K.Marimuthu

.. Appellant

Vs.

1. A.Rameshkumar
2. S.Velingari
3. M/s.National Insurance Co. Ltd.,
East Fort Complex, Fort Maidan,
Palakkad - 678 013.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.02.2006 made in M.C.O.P.No.443 of 2005 on the file of the Motor Accident Claims Tribunal / II Additional Sub Judge, Coimbatore.

For Appellant : M/s. P.Indumathi

For R1 & R2 : No appearance

For R3 : Mr.S.Vadivel

JUDGMENT

According to the appellant/claimant, on 09.09.2004 at about 07.40 a.m., he was riding Hero Honda two-wheeler bearing registration No. TN 37 AH 2347 to drop his minor son to his school at Natchipalayam, from his house Valukkuparai, and at that time, the Mahindra Milk Van bearing Reg.No.KL 09 J 1966 belonging to the second respondent and insured with the third respondent insurance company, came in a rash and negligent manner and dashed against the motorcycle, due to which, the appellant and his son sustained injuries. Stating so, he filed a claim petition, claiming a compensation of Rs.2,00,000/- for the injuries sustained by him in the accident. On consideration of the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the van and awarded a total compensation of Rs.36,000/- with interest at 7.5% per annum from the date of petition. Feeling aggrieved and being dissatisfied with the quantum so determined by the Tribunal, the appellant has preferred this appeal seeking enhancement of the same.

2.The learned counsel for the appellant / claimant has submitted that the Tribunal has erred in awarding only a meagre sum of Rs.36,000/- as against the claim of Rs.2,00,000/- made by the appellant / claimant; the Tribunal has awarded a lesser sum of Rs.15,000/- towards medical expenses; the compensation awarded under other heads are also on the lower side; hence, the same have to be enhanced substantially.

3.Per contra, the learned counsel for the third respondent Insurance company submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

4.Heard the learned counsel on either side and perused the materials available on record.

5.P.W.1/claimant, in his evidence, deposed that he was aged about 36 years and was earning a sum of Rs.6000/- per month as Supervisor. However, no proof was produced to substantiate the same. As per Ex.A6-wound certificate, the appellant/claimant sustained fracture Type I compound both

bones right tibia & Right Fibula Upper 1/3, and cut lacerated wound on his right and leg calf region, besides receiving multiple injuries all over the body. The records further disclose that the claimant initially took treatment at Nataraj Hospital at Madukkarai, Coimbatore and thereafter, he was admitted as in-patient from 09.09.2004 to 26.09.2004. Ex.A8 is the medical bill. Placing reliance on those oral and documentary evidence, the Tribunal has awarded Rs.15,000/- towards medical expenses. The actual amount incurred towards medical expenses by the appellant as per Ex.P8-Medical Bills, is Rs.39,420/-. Hence the Tribunal is not correct in awarding lesser amount. Therefore, the amount awarded by the Tribunal towards medical expenses stands modified to Rs.39,420/- . Further, it would be appropriate to enhance the amounts awarded by the Tribunal towards pain and suffering from Rs.10,000/- to Rs.15,000/-. transportation from Rs.500/- to Rs.1500/- and extra nourishment from Rs.500/- to Rs.1500/-. That apart, taking note of the fact that no amount was awarded towards "future medical expenses" and "attender charges", this Court is inclined to award sums of Rs.25,000/- and Rs.8,000/- under those heads, respectively, as due to the injuries suffered by him, he would have incurred additional expenses after some time since he sustained fractures and that he would have necessarily required the assistance

of an attender. However, the amounts awarded towards loss of income during the treatment period and for injury at Rs.2,000/- and Rs.8,000/- respectively, are confirmed. The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Medical expenses	39,420/-
Pain and suffering	15,000/-
Transportation expenses	1,500/-
Extra nourishment	1,500/-
Loss of income during the treatment period	2,000/-
Injury	8,000/-
Future medical expenses	25,000/-
Attender charges	8,000/-
TOTAL....	1,00,420/- (rounded off to 1,00,000/-)

Thus, the compensation awarded by the Tribunal stands modified to Rs.1,00,000/- with interest at the rate of 7.5% per annum from the date of petition. It is made clear that the appellant /claimant is not entitled to receive interest for the period of delay in filing the appeal, only in respect of the enhanced amount of compensation.

6.The respondents are jointly and severally directed to deposit the modified compensation amount as ordered above, after deducting the amount, if any, already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant / claimant is permitted to withdraw the same on making proper application before the Tribunal.

7.Accordingly, this Civil Miscellaneous Appeal is allowed in part. No costs.

17.09.2020

Index : Yes / No
Internet : Yes/ No

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To

1. The learned II Additional Sub Judge,
The Motor Accident Claims Tribunal,
Coimbatore.

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

R.MAHADEVAN, J.

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