



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No.803 of 2008

Natarajan

... Appellant/Claimant

-vs-

1.Subramani

2.M/s.National Insurance Company Ltd.,

No.63, Branch Office

Karur at Rasi Plaza

Paradatchanam Road, Karur

... Respondents/1st & 2nd
Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree, dated 30.11.2006 in M.C.O.P.No.35 of 2006, on the file of the Motor Accident Claims Tribunal-cum-Chief Judicial Magistrate, Karur.

For Appellant : Mr.N.Shanmugaselvam

For Respondents : No appearance for R1
Ms.P.Malini for R2

J U D G M E N T

This civil miscellaneous appeal by the claimant seeking enhancement of compensation.

2. The appellant sustained injuries in a motor vehicle accident that had taken place on 23.01.2005, while he was proceeding in a two wheeler. Though he sought for compensation of Rs.5,00,000/-, the Tribunal chose to award a sum of Rs.1,87,500/- along with interest at the rate of 7.5% per annum.

3. It is contended by Mr.N.Shanmugaselvam, learned counsel appearing for the appellant, that even though the claimant has proved that he spent Rs.1,47,363/- towards medical expenses, however, the Tribunal has awarded only Rs.65,000/-. The award on the other heads is also required to be enhanced.

4. Per contra, Ms.P.Malini, learned counsel appearing for the second respondent - Insurance Company, would argue that since some of the bills were produced without proper signature of the concerned Doctor, the Tribunal has rightly rejected those bills and hence, the Award passed by the Tribunal does not warrant any interference of this Court.



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

6. A perusal of the Award impugned in this appeal would show that in the accident took place on 23.01.2005, the appellant got fracture in the head as well as injuries on his body, for which he initially took treatment in K.G.Hospital at Karur and thereafter, he was shifted to K.M.C.H. at Coimbatore. In order to prove the medical expenses, the claimant himself was examined as P.W.1 and Dr.Elangovan and Dr.Kesavamoorthi were examined as P.Ws.4 and 5. During the course of cross-examination, the Doctors have admitted that there was no signature in some of the bills produced by the appellant. So, the Tribunal rejected those bills and awarded Rs.65,000/- against the claim of Rs.1,47,363/-. On perusal of the evidence of P.Ws.4 and 5 and Ex.P9 - Medical Bill series, it is seen that those bills were issued by the same Hospital, where injured was treated. So, merely because there is no signature of the Doctors in the medical bills, it is not appropriate to reject those bills. Hence, this Court awards Rs.52,000/- under the head of medical expenses in addition to Rs.65,000/- awarded by the Tribunal. In respect of other heads, the Award of the Tribunal is reasonable and therefore it is confirmed.

7. It is to be noted that the Tribunal has passed the Award on 30.11.2006. But, the present civil miscellaneous appeal was filed only in the year 2008 with delay. Hence, the appellant / claimant is not entitled for interest for the enhanced compensation from the date of Award till the date of filing of this appeal i.e.15.05.2008. The second respondent - Insurance Company shall pay the enhanced compensation of Rs.52,000/- along with interest at the rate of 6% per annum from the date of filing of this appeal i.e.15.05.2008 till the date of deposit. The second respondent - Insurance Company is further directed to deposit the amount within a period of eight weeks to the credit of the claim petition.

8. Accordingly, this civil miscellaneous appeal is allowed.
No costs.

Sd/-

Assistant Registrar (CS-I)

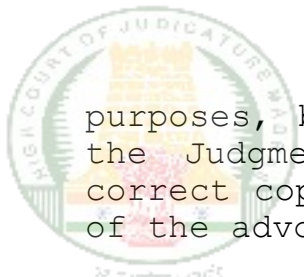
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Sub Assistant Registrar(CS)

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purposes, but, ensuring that the copy of the Judgment that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To:

- 1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Karur.
- 2.The Record Keeper, (2 copies)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.MALINI, Advocate (SR-22804[F] dated 26/11/2020)

C.M.A. (MD) No.803 of 2008
24.11.2020

VB (11.12.2020) 3P 5C