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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.No.2041 of 2010

N.Senthilselvan

...Appellant/Petitioner

Versus

1.Jerin Abraham

2.National Insurance Co.Ltd.,
No.751, Anna Salai,
Chennai - 2

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 31.03.2010 made in M.C.O.P.No.4202 of 2008 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai

For Appellant : Mr.M.Sivakumar
for Mr.V.Jagannathan

For Respondents
For R2 : Mr.J.Chandran
R1 : Notice served

J U D G M E N T

This appeal is laid as against the judgment and decree dated 31.03.2010 made in M.C.O.P.No.4202 of 2008 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai, thereby awarded the compensation to the tune of Rs.1,06,000/-.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.

3. The case of the claimant is that on 27.09.2008 at about 2.15 hours, when he was riding his two wheeler the first respondent drove his car in a rash and negligent manner and hit the claimant. Due to the said accident, the claimant sustained grievous injuries. He was working as Field Executive in a private company and was earning Rs.6,000/- per month with petrol



allowance Rs.100/- per day. Due to the accident, he sustained head injury and he was admitted into hospital on 27.09.2008 and he was discharged on 06.10.2008. Even after the discharge from hospital, he was not able to attend his work due to the injuries sustained by him during the accident. Therefore, the claimant filed claim petition seeking compensation of Rs.6,00,000/-.

4. The respondents remained exparte before the Tribunal.

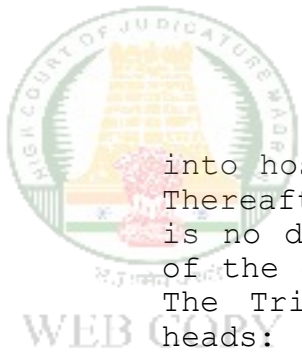
5. On the side of the claimant, he examined P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.9. On the side of the respondents neither oral nor documentary evidence was let in. On the basis of the evidence available on records and also considering the submission made by the learned counsel appearing on either side, the Tribunal awarded compensation of Rs.1,06,000/- payable by the second respondent herein with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Being not satisfied with the quantum of the compensation awarded by the Tribunal, the claimant came forward with the present appeal for enhancement of award.

6. The learned counsel appearing for the claimant submits that the appellant sustained injuries and due to which he got permanent disability at 40%. In this regard, doctor who assessed the disability was examined as PW2. The claimant also sustained injury in Tramatic Brain, Left Subarachnoid, Haemorrhage, Subdoral Haemorrhage. Further the Tribunal awarded only a sum of Rs.10,000/- towards medical expenses, when the appellant had taken treatment as inpatient for ten days at Sundaram Medical Foundation, Dr.Ranganathan Memorial Hospital, Chennai. Further submitted that Ex.P4, medical bills were shown to the tune of Rs.91,418/- whereas the Tribunal awarded only a sum Rs.10,000/- as medical expenditure. Therefore, the appellant sought for enhancement of the award.

7. Per contra, the learned counsel for the second respondent would submit that the Tribunal rightly awarded a sum of Rs.10,000/- towards medical expenditure since the medical bills produced by the appellant are not believable one.

8. Heard Mr.M.Sivakumar, learned counsel appearing for the claimant and Mr.J.Chandran, learned counsel appearing for the second respondent.

9. While the appellant was working as Field Executive in a private company, on 27.09.2008, when he was riding his motorcyle, at the same time, the first respondent was driving his four wheeler in a rash and negligent manner, came to the wrong side and hit the petitioner. Due to the said accident, the appellant sustained head injury and immediately he was admitted



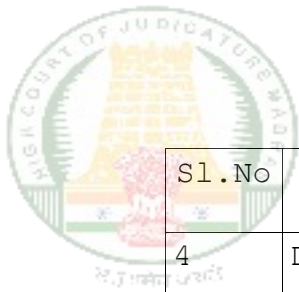
into hospital on 27.09.2008. He had taken treatment for 10 days. Thereafter, on 06.10.2008 he was discharged from hospital. There is no dispute in respect of the accident liability. In respect of the quantum, the appellant filed this appeal for enhancement. The Tribunal awarded a sum of Rs.1,06,000/- on the following heads:

Sl.No	Heads	Awarded by the Tribunal
1	Loss of earnings	Rs.18,000/-
2	Transport expenses	Rs. 5,000/-
3	Extra nourishment charges	Rs. 5,000/-
4	Damaged to dress and articles	Rs. 3,000/-
5	Medical Expenses	Rs. 10,000/-
6	Loss of Langivity	Rs. 5,000/-
7	Attendants charge	Rs. 5,000/-
8	Mental Agony	Rs. 5,000/-
9	Compensation for pain and suffering	Rs. 10,000/-
10	Permanent Disability	Rs. 40,000/-
	Total	Rs. 1,06,000/-

10. The appellant was discharged from hospital i.e. Sundaram Medical Foundation, Dr.Ranganathan Memorial Hospital, Chennai on 06.10.2008. The discharge summary was marked as Ex.P3 and the medical bills were marked as Ex.P4. The Tribunal awarded a sum Rs.10,000/- towards medical expenditure. Whereas on perusal of Ex.P4, medical bills, comes around Rs.28,772/- other than the charges for CT scan and other laboratory bills. Considering the Ex.P4, medical bills series, this Court is inclined to enhance the medical expenses from Rs.10,000/- to Rs.50,000/-.

11. Accordingly the compensation awarded by the Tribunal stands modified as under :-

Sl.No	Heads	Awarded by the Tribunal	Awarded by this Court
1	Loss of earnings	Rs.18,000/-	Rs.18,000/-
2	Transport expenses	Rs. 5,000/-	Rs. 5,000/-
3	Extra nourishment charges	Rs. 5,000/-	Rs. 5,000/-



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Sl.No	Heads	Awarded by the Tribunal	Awarded by this Court
4	Damaged to dress and articles	Rs. 3,000/-	Rs. 3,000/-
5	Medical Expenses	Rs. 10,000/-	Rs. 50,000/-
6	Loss of Langivity	Rs. 5,000/-	Rs. 5,000/-
7	Attendants charge	Rs. 5,000/-	Rs. 5,000/-
8	Mental Agony	Rs. 5,000/-	Rs. 5,000/-
9	Compensation for pain and suffering	Rs. 10,000/-	Rs. 10,000/-
10	Permanent Disability	Rs. 40,000/-	Rs. 40,000/-
	Total	Rs. 1,06,000/-	Rs. 1,46,000/-

12. In the result the Civil Miscellaneous Appeal is partly allowed as follows:-

(i) The award passed by the Tribunal is enhanced from Rs.1,06,000/- to Rs.1,46,000/-.

(ii) The award amount will carry the interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit.

(iii) The second respondent is directed to deposit the award amount, less the amount, if any, already deposited, along with accrued interest within a period of six weeks from the date of receipt of copy of this Judgment.

(iv) On such deposit, the claimant is permitted to withdraw the amount awarded as above by filing proper application before the Tribunal.

(v) The claimant shall pay requisite Court fee before the receipt of the copy of the judgment for the enhanced compensation.

(vi) There shall be no order as to costs.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

1.The II Judge, Court of Small Causes,
Motor Accident Claims Tribunal, Chennai

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

+1 CC to Mr.V.Jagannathan, Advocate sr 22048

+1 CC to Mr.J.Chandran, Advocate sr 22539.

C.M.A.No.2041 of 2010

NR(CO)
SP(02/11/2021)