



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.3.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CIVIL MISCELLANEOUS APPEAL NO.1449 OF 2013

T.Shanmugam

... Petitioner/Appellant

..Vs..

1. Ravindran
2. T.V.Ponnusamy
3. The Oriental Insurance Company Ltd.,
146, West Car Street,
Kumar Complex, I Floor,
Tiruchengode - 637 211.

... Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 25.7.2012 made in M.C.O.P.No.93 of 2008 on the file of Subordinate Judge (Motor Accident Claims Tribunal), Tiruchengode.

For Appellant : Mr.V.Babu

For Respondent No.3 : Mr.K.Vinoth for
M/s.Elveera Ravindran

JUDGMENT

Brief facts of the claimant's case is as follows:

On 19.2.2002 the petitioner/appellant travelled as a pillion rider in Suzuki motorcycle bearing registration No.7170 which was ridden by the first respondent in the morning when they were proceeding near new Puliamatti, a bus coming behind them blown a horn in a sound, rash and negligent manner and thereby the first respondent lost his control and the motorcycle hit on erected stone and thereby, the petitioner thrown out and sustained fractures and injuries and had taken treatment for 15



days in a private hospital. Tiruchengode police registered a case against the first respondent in Cr.No.177 of 2002 under Sec.279 and 338 of I.P.C. The petitioner filed a claim petition claiming Rs.3,50,000/- as compensation from the respondents being the rider, owner and insurer of the offending insured vehicle.

2. Before the tribunal, on the side of the claimant, P.W.1 and 2 were examined and Ex.P1 to P11 were marked. On the side of the respondents, no oral or documentary evidence adduced. The Tribunal, based on the oral and documentary evidence, came to the conclusion that due to the rash and negligent act of the first respondent, the accident occurred and awarded Rs.73,600/- as compensation for the injuries sustained by the petitioner along with interest at the rate of 7.5% p.a from the date of petition till realization. The total compensation awarded by the tribunal under various heads are as follows:

Heads	Compensation Awarded by the tribunal (Rs.)
Loss of earning for 6 months	4,500/-
Transport to hospital & hospital charges	35,000/-
Extra Nourishment	1,000/-
Damage to clothing & articles	500/-
Pain & Sufferings	1,000/-
Continuing Permanent disability & Loss of earning	30,600/-
Total :	72,600/-

3. Aggrieved by the said award, the claimant has preferred the present appeal seeking enhancement of compensation.

4. Heard the learned counsel appearing for the claimant/appellant, the learned counsel appearing for the respondent/Insurance Company and perused the materials available on record.

5. According to the learned counsel appearing for the appellant, the appellant was earning Rs.4500/- per month as he was working as Supervisor in Ravi Earth Movers, Tiruchengode, whereas the tribunal has fixed monthly income of the appellant as Rs.1500/- without any basis. According to the counsel appearing for the appellant, the tribunal has not appreciated the case of



the appellant in proper perspective while awarding compensation for the injuries sustained by the appellant. The appellant also marked disability certificate as Ex.P11. The appellant was admitted in hospital and had taken treatment as inpatient on three occasions viz., 15 days, 7 days and 16 days respectively during the period 19.2.2002 to 16.10.2002 and therefore, the appellant had lost income for a period of six months. The tribunal has awarded meagre amount of Rs.4500/- towards loss of earning for a period of six months. The appellant had produced Ex.P8 medical bills series for a sum of Rs.52,702.72, but the tribunal has not awarded any amount towards medical bills and awarded Rs.35,000/- towards Transportation and hospital charges. The award insofar as extra nourishment and damage to clothes also, the tribunal has awarded meagre amount. Therefore, the claimant/ appellant seeks enhancement of compensation.

6. The learned counsel appearing for the third respondent/Insurance Company would submit that tribunal has considered evidence on the side of the claimant/appellant and rightly awarded a compensation of Rs.73,600/-. Therefore, there is no warrant to interfere with the award passed by the tribunal.

7. P.W.2 Doctor deposed that the appellant sustained 30% permanent disability due to the accident. However, the tribunal has fixed 10% permanent disability sustained by the appellant without any reason. The monthly income of the appellant as fixed by the tribunal is on the lower side. Insofar as other conventional heads also, the tribunal has not awarded just and reasonable compensation to the appellant. Thus, the award passed by the tribunal requires modification. Accordingly, the award passed by the tribunal is modified as follows:

Heads	Compensation awarded by the tribunal Rs.	Compensation enhanced/ Awarded by this Court Rs.
Permanent disability 30% x Rs.1500/-	30,600/-	45,000/-
Loss of earning for 6 months	4,500/-	18,000/-
Pain and suffering	1,000/-	10,000/-
Extra Nourishment	1,000/-	5,000/-
Damage to clothes & articles	500/-	2,000/-



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Heads	Compensation awarded by the tribunal Rs.	Compensation enhanced/ Awarded by this Court Rs.
Loss of amenities	--	7,500/-
Attendant charges	--	6,000/-
Transport to hospital & Hospital charges	35,000/-	--
Transport charges	--	5,000/-
Medical expenses	--	35,000/-
Total :	73,600/-	1,33,500/-

Thus, the compensation awarded by the tribunal is enhanced from Rs.73,600/- to Rs.1,33,500/- and the award is modified to that extent. Except the above modification, the award passed by the tribunal is confirmed.

8. The claimant/appellant is entitled for Rs.1,33,500/- (Rupees one lakh thirty three thousand and five hundred only) along with interest at the rate of 7.5% p.a. from the date of petition till realization. The 3rd respondent/Insurance company is directed to deposit Rs.1,33,500/- along with interest at the rate of 7.5% p.a. from the date of petition till realization, within a period of six weeks from the date of receipt of copy of the judgment, after deducting the amount if any, already deposited before the tribunal. On such deposit being made by the 3rd respondent/Insurance Company, the claimant/appellant is permitted to withdraw the amount by filing appropriate application.

9. In fine, the Civil Miscellaneous Appeal is partly allowed to the aforesaid extent. No costs.

Sd/-
Assistant Registrar (JJ Act)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge
(Motor Accidents Claims Tribunal), Tiruchengode
2. The Oriental Insurance Company Ltd., 146, West Car Street,
Kumar Complex, I Floor, Tiruchengode - 637 211.
3. The Section Officer,
V.R.Section, Madras High Court,
Chennai-104.

+1cc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.18777
+1cc to M/s.Elveera Ravindran, Advocate, S.R.No.18737

CMA.No.1449 of 2013

AD(CO)
CS/24/11/2021