



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 23.12.2020

Judgment Delivered on : 12.02.2021

CORAM

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

C.M.A.No.3180 of 2012

S.Perumal
S/o. Subbarayan

Appellant

...

Vs.

1. K.Vaali

2. The New India Insurance Co. Ltd.,
No.46, Moore Street, Chennai - 01.
(First respondent Exparte in lower Court,
Hence, notice may be dispense with)

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.3699 of 2007 dated 01.03.2011 on the file of the Motor Accidents Claims Tribunal, Small Causes Court - IV, Chennai.

For Appellant : Mr.V.Mohan Choudary
For Respondents : Mr.R.Siva Kumar for R2.
R1-Exparte

JUDGMENT

(This case has been heard through video conference)

The Civil Miscellaneous Appeal has been filed challenging the fair and decretal order dated 01.03.2011 passed in MCOP.No.3699 of 2007 by the Motor Accidents Claims Tribunal, Small Causes Court-IV, Chennai.

2. The case in brief are as follows:

On 06.09.2007 at about 20.00 hours, while the petitioner was crossed Anna Nagar third Avenue Road from East to West direction, the rider of the first respondent's motor cycle bearing Reg. No.TN-09-L-7134 rode the same in a rash and



WEB COPY

negligent manner, dashed against the petitioner, as a result of which, he sustained grievous injuries. The first respondent is the owner of the vehicle and the second respondent is the Insurance company. The first respondent remained exparte before the Tribunal.

3. Mr.V.Mohan Choudary, the learned counsel for the appellant submitted his arguments. As per his submissions, the claimant before the Motor Accident Claims Tribunal as the appellant herein has preferred this appeal seeking enhancement of compensation. The learned counsel for the appellant submitted that the Motor Accident Claims Tribunal, Chennai failed to appreciate the facts of the case as per the ruling of the Hon'ble High Court and Hon'ble Supreme Court regarding the grant of compensation and the Tribunal had failed to grant just compensation. Aggrieved by the same, the claimant who is the injured victim of the accident has filed this appeal. On the date of the accident, the appellant herein who was the claimant before the Motor Accident Claims Tribunal was having his own bullock cart and earning a sum of Rs.250/- per day. If that is taken as income per day for 30 days it will be at Rs.7500/-. But the Tribunal had fixed a sum of Rs.4500/- only towards loss of earning.

4. Points for consideration

Whether the appellant/claimant is to be granted enhanced compensation.

5. Perused the claim petition filed by the appellant/claimant before the Motor Accident Claims Tribunal, Chennai in MCOP No.3699/2007, the counter filed by the second respondent/Insurance Company and the order passed by the Motor Accident Claims Tribunal.

6. On perusal of the award passed by the Motor Accident Claims Tribunal, it is found that the Tribunal awarded a sum of Rs.4500/- towards loss of earning is meagre. Therefore, this Court is of the considered view that it has to be fixed at Rs.200/- per day (i.e., $200 \times 30 = 6000$). Therefore this Court awards a sum of Rs.12000/- towards loss of earning during the period of treatment and post treatment since, he would have been prevented from attending his avocation. Ex.P.9, disability certificate issued by P.W.2 stated that he had suffered partial permanent disability. The Tribunal had mentioned about his treatment in Kilpauk Medical College. Ex.P.4 is the X-ray report wherein mid-fibula had suffered displacement. He was under treatment as an outpatient in Kilpauk Medical College and subsequently treatment was taken from Puthur. Therefore, no medical bills are available. Therefore, for extra nourishment, Rs.10,000/- is awarded. Under the medical expenses, no bills



have been furnished. But the Tribunal had granted Rs.2000/- and that is justified. Nothing more than that can be granted. For 20% disability, the Tribunal had recalculated under the head permanent liability at 15% (Rs.1500/- was awarded per %) and for 15%, Rs.22500/- was calculated by the Tribunal as compensation for permanent disability. The said amount is enhanced as Rs.2000 for 1% and for 20 % disability, it would be at Rs.40,000/-

7. Considering the nature of injuries sustained by the appellant/claimant, this Court enhanced a sum of Rs.15,000/- towards pain and sufferings.

8. Since the amount awarded by the Tribunal under all the other heads are just and fair, the same are hereby confirmed. The break-up details of the amounts awarded under various heads are as follows:

Sl. No	Head under which the compensation is awarded	Amounts awarded by the Tribunal	Amounts awarded by this Court
1	Loss of Income during the period of treatment	4,500	12,000
2	Transport to Hospital	2,000	2,000
3	Extra Nourishment	3,000	10,000
4	Medical Expenses	2,000	2,000
5	Pain and Sufferings	10,000	15,000
6	Permanent disability	22,500	40,000
	Total	44,000	81,000

8. Accordingly, this Civil Miscellaneous Appeal is allowed. The second respondent/Insurance Company is directed to deposit the amount, which we have determined in this appeal, to the credit of M.C.O.P.No.3699 of 2007 on the file of the Motor Accidents Claims Tribunal, Small Causes Court - IV, Chennai, with accrued interest at the rate of 7.5% per annum from the date the appeal was numbered(the claimant/appellants are not entitled to claim the interest for the period in which the memorandum of Appeal were returned for compliance of defects) till the date of deposit along with costs, through RTGS or NEFT method as held by this Court in (The Oriental Insurance Company Limited, Kannur Vs. Rajesh and two others) 2016 (1) TN MAC 433, after adjusting the amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant shall be entitled to



withdraw a sum of Rs.81,000/- with accrued interest. The appellants are directed to pay appropriate Court fees within a period of two months, failing which, they are not entitled to claim interest on the award amount. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dh

To

1. The Motor Accidents Claims Tribunal /
IV Judge, Court of Small Causes, Chennai.

Copy to:

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

+1cc to Mr.R.Sivakumar, Advocate, S.R.No.8118

+2cc to Mr.V.Mohan Choudary, Advocate, S.R.No.8381

C.M.A.No.3180 of 2012

RP(CO)
CB(03/09/2021)