



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 01.03.2021

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CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.3658 of 2012

L. Sabareeswaran ... Appellant/ Claimant

Vs.

1. Bajarang Laxman Jadhav,
2. The Divisional Manager, United India Insurance Company Ltd.,  
Satara Divisional Office, Granodhar Bhavan, Pavai Nagar,  
Satara District 415 002, Maharashtra State.  
having its Divisional Office at J.N.St.,  
Pondicherry, rep. by its Divisional Manager, Pondicherry.  
... Respondents/ Respondents

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 30.04.2009 passed in M.C.O.P.No.1506 of 2003 by the Additional Subordinate Judge, Motor Accident Claims Tribunal, Pondicherry.

For Appellant : Mr.C.Prasanna Venkatesh

For respondents : Mr.M.Krishnamoorthy (for R2)

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant is before this court for enhancement of the compensation.

2. The claimant has filed a claim petition before the Tribunal seeking compensation of Rs.23,80,000/- for the injuries sustained by him in a road accident that took place on 26.02.2003.

3. The brief case of the claimant is as follows: The claimant was a driver by profession. On 26.02.2003, he had driven a van bearing registration No.PY-01-E-5934, carrying shoes from Pondicherry to Bovelley (Mumbai) Maharashtra and while nearing Wagwadi diversion in Pune Bangalore road, a truck



bearing registration No.MH-04-H-4119 headed the van, thereby he sustained grievous injuries and also fracture on his knee. According to the claimant, the rash and negligent driving of the driver of the truck was the cause of accident and since the first respondent/ owner of the vehicle insured his truck with the second respondent/ insurance company, both of them are liable to pay compensation.

4. The claim petition was resisted by the insurance company by filing counter affidavit.

5. Before Tribunal, on the side of the claimant, the claimant and three other witnesses were examined as PW1 to PW4 and Ex.P1 to Ex.P55 were marked. On the side of the respondents, no oral and documentary evidence was adduced.

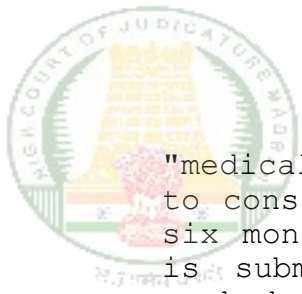
6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.2,72,000/- to the claimant. The compensation awarded under various heads are extracted hereunder.

| Sl No | Heads                                        | Amount in Rs. |
|-------|----------------------------------------------|---------------|
| 1     | Partial Permanent Disability                 | 60,000        |
| 2     | Pain and sufferings and mental agony         | 25,000        |
| 3     | Loss of income (12x3000)                     | 36,000        |
| 4     | Medical expenses                             | 1,36,000      |
| 5     | Extra Nourishment and Transportation charges | 15,000        |
|       | Total                                        | 2,72,000      |

Not satisfied with quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal to enhance the compensation.

7. Heard the learned counsel for the appellant and the counsel appearing for the Insurance Company. I have perused the materials on record.

8. The learned counsel appearing for the appellant submitted that at the time of accident, the claimant was only at the age of 23 years and due to the accident, his future livelihood is affected very much, however, the Tribunal has awarded a very meagre amount as compensation. He further submitted that the claimant has sustained grievous injuries and fracture on his knee and he was treated as inpatient for a period of 6 months and till today, he is on regular treatment. But the Tribunal has awarded compensation towards



"medical bills " only by taking few medical bills and has failed to consider that the claimant was hospitalised for a period of six months and was advised to undergo continuous treatment. It is submitted by him that though the salary certificate was marked as Ex.P54, the Tribunal has erred in fixing the monthly income only at Rs.3,000/- . He also submitted that due to the accident, the claimant has suffered a lot which caused mental agony, stress and pain and sufferings to him and he is not able to do his work as driver, as done earlier and hence, he prayed for enhancement of compensation.

9. The learned counsel appearing for the insurance company submitted the after analysing the evidence and the documents on record, the Tribunal has awarded a just and reasonable compensation and therefore, the award passed by the Tribunal does not warrant any interference by this court.

10. Now the point for consideration is whether the compensation awarded by the Tribunal has to be scaled down.

11. Point

It is the contention of the appellant/ claimant is that the accident took place on 26.02.2003 and during the accident, the claimant has sustained fracture on his knee and multiple grievous injuries. This fact was not denied by the respondents. The submission of the appellant is that he was a driver by profession and was earning a sum of Rs.5,000/- per month and due to the accident, he is not able to drive and now doing alternative job. As per Ex.P26, the partial disability suffered by the claimant is assessed at 60%. Taking note of the fact that the claimant was a driver and at the time of accident, he possessed driving licence, this court is inclined to grant a sum of Rs.2000/- per percentage and accordingly a sum of Rs.1,20,000/- is awarded towards " Partial Permanent Disability". It is not disputed that the claimant was taking treatment for a period of six months on different spell and hence it is just and reasonable to award a sum of Rs.18,000/- towards " Attender's charges" and a sum of Rs.15,000/- towards " Loss of amenities". Considering the fact that the claimant is not able to do his work as driver, as done earlier, a sum of Rs.50,000/- is awarded towards " Future loss of income". Accordingly, the revised compensation awarded under various heads is extracted hereunder.



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| Sl. No | Heads                                        | Compensation Awarded by the Tribunal | Compensation enhanced/ Awarded by this court |
|--------|----------------------------------------------|--------------------------------------|----------------------------------------------|
| 1      | Partial Permanent Disability                 | 60,000                               | 1,20,000                                     |
| 2      | Pain and sufferings and mental agony         | 25,000                               | 25,000                                       |
| 3      | Loss of income (12x3000)                     | 36,000                               | 36,000                                       |
| 4      | Medical expenses                             | 1,36,000                             | 1,36,000                                     |
| 5      | Extra Nourishment and Transportation charges | 15,000                               | 15,000                                       |
| 6      | Attender's charges                           | -                                    | 18,000                                       |
| 7      | Loss of amenities                            | -                                    | 15,000                                       |
| 8      | Loss of future income                        | -                                    | 50,000                                       |
|        | Total                                        | 2,72,000                             | 4,15,000                                     |

This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

13. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is enhanced from Rs.2,72,000/- to Rs.4,15,000/- No costs.

(ii) The insurance company is directed to deposit the revised compensation of Rs.4,15,000/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit, less the amount if already deposited, within a period of six weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the insurance company, the claimant is entitled to withdraw the same, after following due process of law.

Sd/-  
Assistant Registrar(CS II)

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Sub Assistant Registrar



mst  
To

1. The Additional Subordinate Judge,  
Motor Accident Claims Tribunal,  
Pondicherry.

2. The Section Officer,  
V.R.Section, Madras High Court,  
Chennai-104.

+1cc to Mr.M.Krishnamoorthy, Advocate Sr.12937

CMA. No.3658 of 2012 and

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