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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.07.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A. No.1338 of 2020

Jothilingam

..Appellant/Petitioner

Versus

1.Basheer Ahmed

2.United India Insurance Company Ltd.,
Third Party Service Hub, Plot No.35, 36, 37,
AR Plaza, 45 Feet Road, Balaji Nagar Extension,
Saram, Puducherry 605011.

..Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 20.03.2020 in MCOP.No.4225 of 2016 on the file of the Motor Accidents Claims Tribunal, Principal Sub Judge, Cuddalore.

For appellant :Ms.Ramya V. Rao

For respondents

for R1 :Set ex-parte before the Tribunal

for R2 :Mr.P.Sankaranarayanan

J U D G M E N T

The appeal is heard through video conferencing.

2. Not being satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal/ Principal Sub Judge, Cuddalore, in MCOP. No.4225 of 2016, dated 20.03.2020, the present appeal is filed by the claimant for enhancement of the compensation amount.

3. It is the case of the appellant/claimant that, on 13.09.2016 at about 19.00 hours, he was riding his bi-cycle on Panruti to Cuddalore Main Road on the extreme left side mud portion from East to West direction. When he was nearing Andipalayam Bus Stop, the first respondent, in his Motor Cycle bearing Registration No.TN 31 H 4506 came behind the claimant in



a great speed in a rash and negligent manner and dashed against the claimant. Due to the impact, the claimant sustained fracture on his right rib bones, injuries on hands, head, legs and multiple grievous injuries all over his body. Immediately, the claimant was admitted in the Government Hospital at Panruti and he took further treatment in the Government Hospital at Cuddalore and also in Private Hospitals.

4. It is the further case of the appellant/claimant that he was working as an agriculture coolie and earning Rs.15,000/- per month. Due to the accident, the claimant could not lead his normal life as before and hence, he claimed a sum of Rs.5,00,000/- as compensation before the Tribunal.

5. The said claim petition was resisted by the second respondent/Insurance Company by filing a counter statement denying the manner of the accident as projected by the claimant. It is the specific contention of the learned counsel for the second respondent/Insurance Company that the first respondent did not have a valid driving licence. Hence, the Insurance Company prayed for dismissal of the claim petition.

6. In order to prove the claim on the side of the claimant, the claimant examined himself as PW1 and marked Exs.P1 to P7. Ex.C1 is the Disability Certificate issued by the Medical Board. On the side of the Insurance Company, neither oral nor any documentary evidence was adduced.

7. The Tribunal, after analysing the entire evidence, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the first respondent. By coming to such conclusion, the Tribunal awarded a sum of Rs.30,000/- as "just compensation" and directed the second respondent/Insurance Company to pay the said amount to the claimant and thereafter, permitted the Insurance Company to recover the same from the first respondent/owner of the Motor Cycle.

8. Now, it is the submission of the learned counsel for the appellant/claimant that, in the said accident, the claimant suffered grievous multiple injuries, viz., fracture of 3rd, 4th, 5th and 6th Rib Bones on the right side and lacerated injury on right parietal occipital region with hematoma. The same is evident from Ex.P2-AR Copy and Ex.P3-Discharge Summary. Further, he took treatment as in-patient from 17.09.2015 to 22.09.2015. Hence, instead of awarding a sum of Rs.30,000/ as "just compensation", the claimant may be granted amounts under the conventional heads.



9. The learned counsel appearing for the second respondent/Insurance Company made his submissions supporting the award passed by the Tribunal.

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10. Heard both sides and perused the entire materials available on record.

11. As contended by the learned counsel for the appellant/claimant, on a perusal of Ex.P2 copy of AR, it shows that the claimant had suffered fracture of 3rd, 4th, 5th and 6th Rib Bones. Since the claimant sustained grievous injuries on his body, instead of awarding "just compensation", the Tribunal ought to have awarded compensation under conventional heads. Hence, a sum of Rs.30,000/- awarded by the Tribunal as "just compensation" is set aside. Instead, the amounts are awarded under "conventional heads" as discussed below.

12. Considering the nature of work of the appellant/claimant and also taking into account the year of the accident, i.e., 2016, a sum of Rs.10,000/- is fixed as notional monthly income of the claimant. As the claimant could not do his job for a period of 5 months and if the loss of income of the claimant is calculated for 5 months, the amount comes to Rs.50,000/- [5 x 10,000]. Thus, a sum of Rs.50,000/- is awarded under the head "Loss of Income".

13. Considering the nature of injuries suffered by the claimant, it is justifiable to award a sum of Rs.20,000/- under the head "Pain and Sufferings".

14. Considering the duration of treatment undergone by the claimant in the Hospital as an in-patient, the claimant is awarded a sum of Rs.5,000/- under each of the heads, viz., "Transportation Expenses", "Attender Charges" and "Extra Nourishment".

15. Considering the fact that the claimant is not able to carry out his work normally as he was doing before the accident, a sum of Rs.5,000/- is awarded under the head "Loss of Amenities".

16. Thus, the total compensation payable to the claimant is re-calculated and tabulated below:



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S. No.	Heads under which amounts are awarded	Amounts awarded by this Court in Rs.
1.	Pain and Sufferings	20,000
2.	Transportation Expenses	5,000
3.	Attender Charges	5,000
4.	Loss of Income	50,000
5.	Extra Nourishment	5,000
6.	Loss of Amenities	5,000
	Total	90,000

17. Accordingly, the Civil Miscellaneous Appeal is partly allowed.

i) Thus, the total compensation of Rs.30,000/- awarded by the Tribunal is hereby enhanced to Rs.90,000/- (Rupees Ninety Thousand only), which shall carry interest at 7.5% from the date of claim petition till the date of payment. The second respondent/Insurance Company is directed to deposit the total compensation awarded by this Court before the Tribunal, after adjusting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire amount in accordance with law. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation.

ii) The second respondent/Insurance Company, after making payment, is permitted to recover the above compensation amount from the first respondent/owner of the Motor Cycle bearing Registration No.TN 31 H 4506, in accordance with law. No costs.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar



pvs
To

1. The Motor Accident Claims Tribunal
Principal Sub Judge, Cuddalore

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

+1 CC to Mr.P.Sankaranarayanan, Advocate sr 31017

C.M.A. No.1338 of 2020

RP(CO)
SP(25/11/2021)