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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.1685 of 2020

X.Anand Xavier

.. Appellant/Claimant

Versus

1. D.Sathish Kumar
2. National Insurance Co. Ltd.,
Motor Third Party Claims Hub,
3rd Floor, No.403, L.Pantheon Road,
Egmore, Chennai 600 008.

.. Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 04.01.2020 made in MCOP.No.4580 of 2015 on the file of the Motor Accident Claims Tribunal/Small Causes Court(Special Sub Judge, No.I), Chennai.

For appellant	:	Mr.K.Varadhakamaraj
For respondents	:	
for R1	:	Set ex-parte before the Tribunal
for R2	:	Mr.S.Arunkumar

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 Accident Claims Tribunal/Small Causes Court, Special Sub Judge, No.I, Chennai, in MCOP.No.4580 of 2015, the present appeal has been filed by the claimant for enhancement of the compensation amount.

3. It is the case of the appellant/claimant that on 08.04.2015 at about 22.30 hours, while the claimant was riding a



two wheeler bearing Registration No.TN-37-P-6265 on the left side of the GST Road, near Guduvanchery Signal, a Car bearing Registration No.TN-21-AX-3353, belonging to the first respondent and insured with the second respondent/Insurance Company, driven by its driver in a very rash and negligent manner, and hit the appellant/claimant. Due to the impact, the claimant sustained grievous injuries. Immediately, he was admitted in the SRM Medical College Hospital & Research Center, Potheri and thereafter, he took treatment in various Hospitals. Hence, he made a claim for a sum of Rs.49,00,000/- as compensation before the Tribunal.

4. The said claim petition was resisted by the Insurance Company by filing a detailed counter statement denying the manner of accident as projected by the claimant in the claim petition. They also denied the avocation and income mentioned in the claim petition. Thus, they sought for dismissal of the claim petition.

5. In order to prove the claim on the side of the claimant, the claimant examined himself as PW1 and marked 14 documents as Exs.P1 to P14. On the side of the second respondent/Insurance Company, neither any oral nor any documentary evidence was adduced.

6. 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's Car. By coming to such conclusion, the Tribunal passed an award for a sum of Rs.1,88,850/- and directed the Insurance Company to pay the above compensation. The break-up details of the amounts awarded by the Tribunal under various heads are as follows:

S.No.	Heads under which amounts are awarded	Amount in Rs.
1.	Disability	75,000
2.	Pain and Sufferings	20,000
3.	Transportation	5,000
4.	Medical Expenses	17,655
5.	Extra Nourishment	10,000
6.	Attender Charges	2,500
7.	Loss of Earnings	38,669



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S.No.	Heads under which amounts are awarded	Amount in Rs.
8.	Loss of Future Prospects	20,000
	Total Compensation	1,88,824 (rounded of to 1,88,850)

7. Now, it is the specific contention of the learned counsel for the appellant/claimant that though the claimant had produced the medical bills for Rs.2,63,646/-, the Tribunal had awarded only Rs.17,655/- on the reasoning that the other bills are duplicate bills. Since at the time of reimbursement of Rs.2,50,000/-, out of the medical bills of Rs.4,95,390/-, the claimant had produced all the original medical bills to the Insurance Company, he could not produce the original bills before the Tribunal for claiming the amount of Rs.2,63,646/-. Hence, the learned counsel seeks to set aside the amount of Rs.17,655/- awarded under the head "Medical Expenses", instead award a sum of Rs.2,63,646/- . The learned counsel further submitted that the amounts awarded by the Tribunal under all the other heads are very meagre and the same needs proper enhancement.

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

9. Heard both sides and perused the materials available on record.

10. It is clear from the records that the claimant had produced all the original medical bills at the time of reimbursement. Hence, the duplicate medical bills that were marked before the Tribunal cannot be found faulted with. Therefore, the total medical bills amounting to Rs.2,63,646/- is taken fully and the same is awarded under the head "Medical Expenses".

11. Further, the sum of Rs.2,500/- awarded under the head "Attender Charges" appears to be on the lower side and hence, the same is hereby enhanced to Rs.5,000/-.



12. The amounts awarded by the Tribunal under all the other heads are fair and reasonable and hence, they are confirmed. The total compensation is re-determined as below:

S. No.	Heads under which amounts are awarded	Amount awarded by the Tribunal in Rs.	Amount awarded by this Court in Rs.
1.	Disability	75,000	75,000
2.	Pain and Sufferings	20,000	20,000
3.	Transportation	5,000	5,000
4.	Medical Expenses	17,655	2,63,646
5.	Extra Nourishment	10,000	10,000
6.	Attender Charges	2,500	5,000
7.	Loss of Earnings	38,669	38,669
8.	Loss of Future Prospects	20,000	20,000
	Total Compensation	1,88,824 (rounded of to 1,88,850)	4,37,315 (rounded of to 4,37,400)

13. Thus, the total compensation of Rs.1,88,824/- awarded by the Tribunal is hereby enhanced to Rs.4,37,400/- (Rupees four lakhs thirty seven thousand and four hundred only), which shall carry interest at 7.5% from the date of claim petition till the date of deposit. 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. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation.

14. With the above observations and directions, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(JJ Act)

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Sub Assistant Registrar

pvs



To

The Special Sub Judge No.1,
The Motor Accident Claims Tribunal/
Small Causes Court,
Chennai

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Copy to:

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

+1CC to Mr.K.Varadhakamaraj, Appellant Advocate, Sr.No.31229

C.M.A. No.1685 of 2020

NR (CO)

K.RK. (19.11.2021)