



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Miscellaneous Appeal No.1766 of 2020

Gunasekaran

... Appellant/Petitioner

Vs.

1. Vijayalakshmi

2. United India Insurance Co., Ltd.,

DO II First Floor, 1295-A, Permanur Main Road,
Salem 636 007.

Branch Office: Opp New Bus Stand,
Sankari Salem Main Road, Sankari,
Salem District.

... Respondents /Respondents

Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, to allow the Civil Miscellaneous Appeal and enhance the award amount in the judgment and decree dated 03.07.2020 made in MACT OP No.689 of 2012 on the file of the Motor Vehicle Accident Claims Tribunal/Subordinate Judge Court, Sankari.

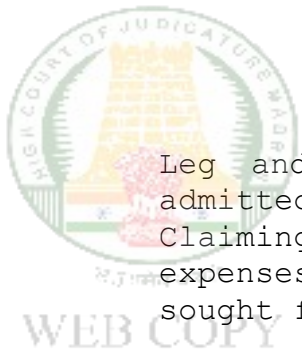
For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mr. C.Paranthaman, for R2

J U D G M E N T

The claimant terming the compensation of Rs.1,30,000/- awarded to him for the injuries suffered by him in a motor accident that occurred on 05.10.2012, seeks enhancement.

2. According to the claimant, he suffered grievous injuries as a result of the motor accident when a bus bearing registration No.TN-28-AQ8118, driven in a rash and negligent manner by its driver dashed against the two wheeler in which the claimant was riding. The claimant had suffered fractures in the



Leg and he was taken to Krishna Hospital, Tiruchengode and admitted as an inpatient, where he was treated from 05.10.2012. Claiming that he had spent a sum of Rs.2,30,000/- for medical expenses and his earning power has been reduced, the claimant sought for a sum of Rs.5,00,000/- as compensation.

3. The claim was resisted by the Insurance Company contending that the claimant had driven the motor cycle in a rash and negligent manner and he did not have a valid driving license, he had contributed to the accident. The details of treatment and injuries were denied and the compensation claimed was termed as excessive.

4. Before the Tribunal, the claimant was examined as C.W.1 and Exhibits C1 to C8 were marked. The disability certificate was marked as Ex.C1 and the Policy was marked as Ex.C2. Upon a consideration of the evidence on record, the Tribunal came to the conclusion that the accident that had occurred because of the rash and negligent driving of the driver of the bus bearing registration No.TN-28-AQ8118. The Tribunal also concluded that there was no negligence on the part of the appellant/claimant and that the Insurance Company is liable to pay the entire compensation.

5. As far as on the quantum of compensation, the Tribunal held that the claimant is entitled to the following amounts under the following heads.

S.No.	Heads	Amount (Rs.)
1.	Medical Expenses (Based on Bills)	46,000/-
2.	Compensation for disability at Rs.3,000/- per percentage	36,000/-
3.	Compensation for Transport charges	5,000/-
4	Damage to clothing and articles	1,000/-
5	Extra Nourishment	10,000/-
6	Future Treatment	30,000/-
	Total	1,28,000/-

The Tribunal rounded it off to Rs.1,30,000/-

6. Mr.T.S.Arthanareeswaran, learned counsel appearing for the appellant would vehemently contend that the Tribunal erred in not awarding any amount towards pain and suffering and loss of income for the treatment period.



7. A perusal of the award shows that the Tribunal has not awarded any amount towards pain and suffering. Admittedly the claimant was inpatient for about 10 days, therefore the Tribunal ought to have awarded some amount towards pain and suffering. Considering the period of hospitalisation and the nature of injuries, I fix the compensation for pain and suffering at Rs.40,000/-. As regards loss of income, it is admitted that the claimant was an inpatient and few surgeries were performed, therefore he would have been disabled from working for a considerable period. Even fixing the period at two months, the claimant would be entitled to a minimum of Rs.10,000/- towards loss of income during the treatment period and thereafter. The compensation awarded into other heads is reasonable, I do not see any reason to interfere with the said award.

8. In view of the above, the Appeal is partly allowed, a sum of Rs.40,000/- is awarded towards pain and suffering and a sum of Rs.10,000/- is awarded towards loss of income and the total compensation works out to Rs.1,80,000/-. The Insurance Company is granted 6 weeks time to deposit the enhanced compensation with appropriate interest as granted by the Tribunal to the credit of MCOP No. 689 of 2012. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

jv

To

1. The Subordinate Judge,
Motor Vehicle Accident Claims Tribunal,
Sankari.

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

+1cc to Mr.C.Paranthaman, Advocate SR.No.63327

Civil Miscellaneous Appeal No.1766 of 2020

SJ(CO)
CB(11/01/2022)