



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 08.01.2021
CORAM
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
C.M. A(MD)No.660 of 2010

Ashokkumar

.. Appellant/Petitioner

vs.

1.Karunanithi

2.The Branch Manager,
National Insurance Co., Ltd.,
having its Office at
Mayiladurai.

..Respondents/Respondents

(R1 Exparte in the trial court, hence dispense with)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the judgment and decree made in MCOP No.161 of 2007 dated 24.07.2009 on the file of the Motor Accident Claims Tribunal, (Additional Sub Judge), Kumbakonam.

For Appellant	:	Mr.S.Deenadhayalan
For Respondents	:	Ms.P.Malini (for R2)
		R.1 - Exparte

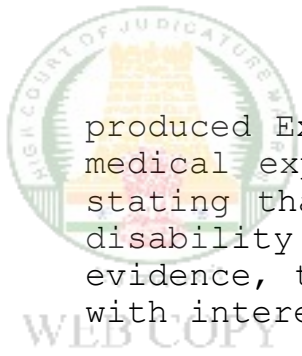
J U D G M E N T

Being dissatisfied with the award of the Motor Accident Claims Tribunal, Additional Sub Court, Kumbakonam, passed in MCOP No.161 of 2007 dated 24.07.2009, the claimant has come forward with this appeal for enhancement of compensation.

2.This is a case of injury. The claim petition was filed seeking compensation of Rs.5,00,000/- for the injuries sustained by the claimant in an accident that took place on 27.07.2006. According to the claimant, he was pillion rider in a two wheeler bearing registration No.TN-49-S-0990 and the vehicle was hit by a Hyundai car, which came from the opposite direction in a rash and negligent manner. The respondents are the owner and insurer of the offending vehicle and hence, they are liable to pay the compensation.

3.The Tribunal, upon consideration of the oral and documentary evidence held that the driver of the speedy car was responsible for the accident. The said finding has become final as no appeal was filed by the respondents questioning the same.

4.Insofar as the quantum is concerned, according to the claimant, he suffered fracture in the accident. He has also



produced Exs.P.6 and P.11 to show that he spend Rs.28,500/- towards medical expenses. P.W.2 Dr.Srinivasan gave disability certificate stating that the claimant suffered 26% disability. Ex.P.12 is the disability certificate and Ex.P.13 is the X-ray. Based on the evidence, the Tribunal has awarded total compensation of Rs.66,500/- with interest at the rate of 7.5% per annum.

5.The grievance of the appellant/claimant is that the award is very meager and instead of applying multiplier, the Tribunal has awarded Rs.1,000/- per percentage.

6.Per contra, the learned counsel for the second respondent/Insurance Company would submit that the award of the Tribunal is reasonable and the appellant is not entitled for enhancement.

7.Heard the learned counsel appearing for the parties and perused the materials available on record.

8.In the instant case, the claimant was 35 years old at the relevant point of time. Though it is contended by the appellant/claimant that he was an employee in TVS company and he was paid Rs.3,000/- as salary, but neither a salary certificate nor an identity card were produced to substantiate the said contention. A perusal of the Judgment of the Tribunal would show that a sum of Rs.28,500/- was awarded based on Exs.P.6 to P.11. The appellant/claimant sought compensation for loss of income, but the Tribunal has rejected the same as it was not proved by him.

9.It is pertinent to note that the appellant had suffered fracture and he was under treatment in a hospital for considerable time. P.W.2 and Ex.12 would prove that the claimant has sustained 26% disability. But the Tribunal has awarded only Rs.26,000/- by applying Rs.1,000/- per percentage. Therefore, this Court is of the opinion that the appellant is entitled to the amount for loss of income during the treatment period and for permanent disability. Therefore, this Court awards Rs.8,000/- for loss of income during the treatment period and Rs.52,000/- towards permanent disability by applying Rs.2,000/- per percentage. Further, Rs.10,000/- awarded by the Tribunal for pain and suffering is enhanced to Rs.20,000/-. The amounts granted in other heads by the Tribunal are confirmed. Therefore, the total award of the Tribunal is enhanced to Rs.1,10,500/- from Rs.66,500/- with interest at 7.5% per annum.

10.In the result, the Civil Miscellaneous Appeal is partly allowed. The second respondent/Insurance Company is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the award amount,



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less the amount already withdrawn, if any, together with proportionate interest and costs. No costs.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

To

1.The Additional Sub Judge,
The Motor Accident Claims Tribunal,
Kumbakonam.

2.The Record Keeper, (2C)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.MALINI, Advocate (SR-761[F] dated 11/01/2021)

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DKS (CO)

KB(25.03.2021) 3P 5C