



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

Civil Miscellaneous Appeal No.32 of 2012

C.Sitharaj

...Appellant/Petitioner

Vs.

1.A.Zavier

2.The Branch Manager

National Insurance Company Ltd.,

Branch Office-6

Chennai-600 014

...Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Award and Decree dated 25.04.2008 made in M.C.O.P.No.1336 of 2006 on the file of the Motor Vehicle Claims Tribunal, Chief Judicial Magistrate, Krishnagiri.

For Appellant : Mr.M.Sriram

For respondents : No appearance for R1
Mrs.R.Sreevidya for R2.

JUDGMENT

This appeal has been filed by the appellant/injured claimant for enhancement of compensation. The Tribunal awarded compensation for a sum of Rs.78,000/- together with interest at the rate of 7.5% from the date of the claim petition till the date of deposit.

2. The averments in the claim petition is that on 18.10.2004 at about 10.00 hours, while the appellant/claimant was standing behind one unregistered new goods vehicle in Hosur to Rayakottah Road, the driver of the lorry bearing Reg.No.TN-29-L6395 belonging to the 1st respondent and insured with the 2nd respondent, started the said lorry rashly and negligently towards reverse direction, as a result of which, the petitioner who was standing behind the said unregistered new vehicle, sustained severe cut and crush injuries over his left hand fingers.



3. Denying the averments in the claim petition, the second respondent filed counter stating that there is a delay in filing FIR and the injuries stated in the claim petition was not sustained by the petitioner.

4. The Tribunal, after considering the pleadings, oral and documentary evidence of both sides, awarded a sum of Rs.78,000/- under the following heads :

S.No.	Particulars	Amount in Rs.
1.	30% disability	60,000/-
2.	Pain and suffering	10,000/-
3.	Nutritious food	2,500/-
4.	Loss of income during treatment period	3,000/-
5.	Transport expenses	2,500/-
	Total	78,000/-

Aggrieved over the same, the appellant/claimant has filed this appeal seeking enhancement of the compensation.

5. According to the learned counsel for the appellant, the Tribunal awarded meager amount of compensation. The doctor/P.W.2 assessed the disability as 30% for amputation of two fingers. The injured being a driver has lost his avocation due to the injuries. Hence, prays to enhance the compensation.

6. The learned counsel for the 2nd respondent-Insurance company would submit that the Tribunal after considering both the oral and documentary evidence of both sides has awarded just compensation and hence, the award needs no interference.

7. Heard the learned counsel for the appellant and the learned counsel for the second respondent and perused the materials available on record.

8. On a perusal of the materials available on record, it is seen that the Tribunal on considering Ex.P.2 Wound certificate, pointed out that the injuries are serious in nature and with surgeries done in four fingers on the left hand, he could not perform skilled work. In such view, taking the disability as assessed by the doctor i.e., 30%, awarded Rs.60,000/- by giving Rs.2000/- per percentage of disability, which this court feels as just and proper.

9. However, taking into account the nature of injuries sustained, the treatment period and the pain and suffering underwent by the appellant, this court is inclined to enhance the compensation under the heads "Pain and Suffering" "Nutrition" and "Transport Expenses" as follows:-



Pain and suffering - from 10,000/- to Rs.50,000/-

Nutrition - from 2,500/- to Rs.10,000/-

Transport expenses - from 2,500/- to Rs. 5,000/-

But in the considered opinion of this court, the compensation awarded by the Tribunal under other heads is just and proper, which needs no interference by this Court. Thus, the claimant would be entitled for modified compensation as under:-

S.No.	Particulars	Amount awarded by the Tribunal in Rs.	Amount enhanced /confirmed by this court in Rs.
1.	30% disability	60,000/-	60,000/-
2.	Pain and suffering	10,000/-	50,000/-
3.	Nutritious food	2,500/-	10,000/-
4.	Loss of income during treatment period	3,000/-	3,000/-
5.	Transport expenses	2,500/-	5,000/-
	Total	78,000/-	1,28,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.78,000/- is hereby enhanced to Rs.1,28,000/- [Rupees One lakh and twenty eight thousand only] together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent/ Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with 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 judgment. On deposit, the enhanced compensation amount shall be released in favour of the appellant. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nvsri



To

1.The Chief Judicial Magistrate,
Motor Vehicle Claims Tribunal,
Krishnagiri.

2.The Section Officer,
VR Section,
High Court, Madras.

+lcc to Mrs.R.Sreevidya, Advocate SR. No. 16363

+lcc to Mr.Mukund R. Pandiyan, Advocate SR. No. 16321

C.M.A.No.32 of 2012

SVI (CO)

PR (16/06/2022)