



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	07.04.2022
Delivered on	27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.Nos.1910 of 2020 & 1760 of 2021
and
C.M.P.No.9372 of 2021

C.M.A.No.1910 of 2020

C.Prasana

... Appellant/Petitioner

Vs.

1.D.Sugumar

2.Reliance General Insurance Company Limited,
Reliance House, RO Legal Department,
6th Floor, No.6, Haddows Road,
Nungambakkam,
Chennai 600 006.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 29.09.2020 made in MACT O.P.No.2760 of 2016 on the file of the Motor Accident Claims Tribunal (Special Sub Judge - II, Court of Small Causes Court), Chennai.

For Appellant : Mr.K.Suryanarayanan

For Respondents : Mrs.C.Bhuvanasundari for R2
No appearance for R1



C.M.A.No.1760 of 2021

The Branch Manager,
Reliance General Ins. Co. Ltd.,
No.6, 6th Floor, Haddows Road,
Nungambakkam,
Chennai - 600 006.

...Appellant/IIInd Respondent

Vs.

1.C.Prasana

... 1st Respondent/Petitioner

2.D.Sugumar

... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to set aside the Decree and Judgment dated 29.09.2020 passed in MCOP No.2760 of 2016 by the Motor Accident Claims Tribunal (Special Sub Judge - II, Court of Small Causes Court), Chennai.

For Appellant : Mrs.C.Bhuvanasundari

For Respondents : Mr.K.Suryanarayanan for R1
R2 - Not Ready Notice

COMMON JUDGMENT

V.SIVAGNANAM, J.

CMA No.1910 of 2020 is filed by claimant seeking enhancement of compensation awarded in MCOP No.2760 of 2016 dated 29.09.2020, by the Motor Accident Claims Tribunal (Special Sub Judge - II, Court of Small Causes Court), Chennai.

CMA No.1710 of 2021 is filed by the Insurance Company challenging the same order on the ground of liability and quantum. Since both the appeals arise out of the same award passed in the MCOP No.2760 of 2016, dated 29.09.2020, both are heard together and disposed of by this common Judgment.

2.For the purpose of clarity, the parties are referred to as per their rank before the Tribunal.



3.The facts of the case in nutshell:-

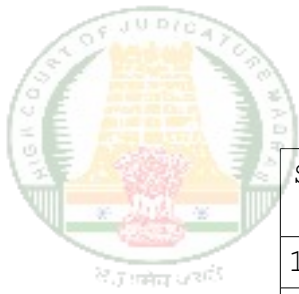
This is a case of injury. On 30.03.2016, at about 16.00 hours, the claimant was travelling as a pillion rider in a two-wheeler bearing Reg.No.TN-19-L-7221 on GST Road, from Chengelpet to Tambaram side. When the said vehicle was nearing opposite to Pentair Company, the rider drove the vehicle in a rash and negligent manner and skidded on the left side of the road. In the impact, the claimant sustained multiple grievous injuries. The first respondent is the owner and the second respondent is the insurer of the offending vehicle. Hence, the claimant laid claim petition before the Tribunal claiming compensation of Rs.38,00,000/-.

4.The Insurance Company filed their counter disputing the manner of accident, age, occupation, nature of injuries and disability sustained by the claimant and its liability to pay the compensation. It was also contended that the claim is excessive and exorbitant.

5.To substantiate their case, the claimant himself examined as P.W.1 and P.W.2 & P.W.3-Doctors and P.W.4-Assistant Manager of the Hospital were also examined and Exs.P1 to Ex.P.21 were marked. On the side of the Insurance Company, R.W.1 was examined and Exs.R.1 and R.2 were marked. Apart from that, Ex.C.1-Disability Certificate was also marked.

6.The Tribunal, after considering the oral and documentary evidence, held that the rider of the two wheeler was responsible for the accident and awarded compensation as follows:-

S.No	Heads	Amounts (Rs.)
1	Loss of earning capacity	19,35,360/-
2	Pain and Suffering	80,000/-
3	Transportation	40,000/-
4	Extra Nourishment	50,000/-
5	Damage to Cloth and Articles	2,000/-
6	Loss of Estate and future prospects	80,000/-
7	Attender charges	40,000/-
8	Loss of non pecuniary benefits	5,000/-
9	Mental Agony	10,000/-



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S.No	Heads	Amounts (Rs.)
10	Medical Expenses	11,20,358/-
11	Future Medical Expenses	50,000/-
	Total	34,12,718/-

Challenging the said award, CMA No.1910 of 2020 has been filed by the claimant seeking enhancement of compensation and the CMA No.1760 of 2021 has been filed challenging the liability and quantum.

7.The learned counsel appearing for the Insurance Company Mrs.C.Bhuvanasundari submitted that it is a false claim and the claimant sustained injuries by falling himself from the vehicle and he may be rider of the vehicle and he was the reason for the accident. In the Discharge Summary (Ex.P.3), the Doctor recorded that the accident caused by 'self fall'. The occurrence took place on 30.03.2016, but the complaint was given only on 04.04.2016. The reason for the delayed complaint was not properly explained by the claimant, which creates serious doubt about the genuineness of the accident. Hence, the learned counsel contended that the Insurance Company is not liable to pay any compensation to the claimant. He further contended that the compensation awarded by the Tribunal is on the higher side. Hence, the learned counsel prays for setting aside the impugned award.

8.The learned counsel appearing for the claimant Mr.K.Suryanarayan submitted that in respect of accident, a case has been registered against the first respondent/Sugumar, which was proved by Ex.P.1-First Information Report. Since the claimant was admitted in the hospital for sustaining head injury, the complaint was not given immediately and only after four days, the claimant's brother gave the complaint. There is no reason to suspect the complaint and the accident.

9.The learned counsel for the claimants further submitted that the claimant, by working at Hi-Tech Tooling Company, earned Rs.30,000/- per month. To establish the same, his Identity Card has been marked as Ex.P.10. In the accident, he sustained 80% permanent disability, which was proved by the Disability Certificate (Ex.C.1). The Tribunal, without appreciating the evidence, fixed the income of the claimant as Rs.9,000/- per month, which is very meagre. He further contended that the amount awarded under the various heads are also very meagre. Hence, the learned counsel prays for enhancement of compensation.



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10. We have considered the rival submissions of the learned counsel appearing for the parties and perused the materials available on record.

11. According to the claimant, he was the pillion rider in the offending vehicle, which was ridden by the first respondent/T.Sugumar. The rider of the two wheeler drove it in a rash and negligent manner and lost his control and caused the accident. In the accident, the claimant sustained grievous injuries. Though the learned counsel for the Insurance Company has disputed the fact that the claimant was the pillion rider on the ground that the accident took place on 30.03.2016 and the complaint was given only on 04.04.2016, there is no material to show that the claimant was a rider at the time of accident. As per the available record, he was the pillion rider. The argument of the learned counsel appearing for the Insurance Company is not supported by evidence on record to show that the claimant himself is the rider of the vehicle. From the discharge summary, we are unable to hold that the claimant was the rider of the vehicle at the time of accident. Hence, we find no force in the contention of the learned counsel appearing for the Insurance Company.

12. Insofar as the quantum is concerned, a perusal of the records would show that the claimant sustained 80% permanent disability, which is evidenced by Ex.C.1-Disability Certificate issued by the Medical Board. Though the learned counsel for the claimant contended that at the time of accident, the claimant was working at Hi.Tech Tooling Company and earned Rs.30,000/- per month, to prove his salary, no document was filed. Ex.P.10 is the Identity Card, which is not enough to prove the income of the claimant. The Tribunal fixed the notional income of the claimant at Rs.9000/- per month. 40% was added towards future prospects. At the time of accident, the claimant was 34 years. The Tribunal, considering the age of the claimant and disability, decided to award the compensation by applying multiplier method. Accordingly, the Tribunal has awarded Rs.19,35,360/- $(9000+3600(40\%)=12600 \times 12 \times 16 \times 80/100)$ towards loss of earning capacity. We find no reason to interfere with the conclusion reached by the Tribunal. With regard to the other heads also, we are of the view that the award of the Tribunal is just and reasonable. Normally, the appellate Court will not interfere with the conclusion of the Tribunal, if it is within the discretion of the Tribunal. In the considered opinion of



this Court, the award of the Tribunal is based on the evidence adduced by the parties and it is fair, just and reasonable. Hence, we find no reason to enhance the amount awarded by the Tribunal.

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13. In the result, both the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

skn
To

The Motor Accident Claims Tribunal,
(Special Sub Judge - II, Court of Small Causes Court),
Chennai.

Copy to

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

+1cc to Mr.K.Suryanarayanan, Advocate Sr.29074

C.M.A.Nos.1910 of 2020 & 1760 of 2021
and
C.M.P.No.9372 of 2021

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