



C.M.A.No.4384 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.4384 of 2019

A.Edwin Robert

... Appellant / Petitioner

Vs.

1. Cholamandalam Ms.General Insurance
Company Limited,
Regd Head Office, Dare House,
No.2, 2nd Floor, NSC Bose Road,
Chennai - 600 001.

2. R.Thangathen Raja
S/o.Ramasamy

3. J.Peter
S/o.Joseph

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 04.03.2017 made in M.C.O.P.No.1303 of 2013 on the file of the Motor Accidents Claims Tribunal-II, Court of Small Causes, Chennai.

For Appellant : Mr.K.Selvaraj

For Respondents : Mr.E.Rajadurai
for Mr.B.Gopalan for R1
R2 - Not Ready Notice
R3 - Died



C.M.A.No.4384 of 2019

J U D G M E N T

WEB COPY

This appeal has been filed by the appellant / claimant to enhance the award in M.C.O.P.No.1303 of 2013 on the file of the Motor Accidents Claims Tribunal-II, Court of Small Causes, Chennai wherein the Tribunal has awarded a sum of Rs.3,23,000/- as compensation.

2. On 01.05.2012 at about 11.00 p.m., when the claimant accompanied as an alternate driver in the Heavy Goods Truck owned by the second respondent bearing Registration No.TN-22-BL-5913, the third respondent driven the truck in a rash and negligent manner, which led to an accident in which the claimant sustained grievous injuries and since the claimant was not able to do the regular work, he claimed a sum of Rs.15,00,000/- as compensation under various heads.

3. The second respondent is the owner of the vehicle and the third respondent is the driver of the vehicle and they remained ex-parte before the trial Court.



WEB COPY

4. Before the Tribunal, the claimant examined himself as P.W.1 and examined the doctor as P.W.2 and examined the owner of the vehicle as P.W.3 and marked Exs.P1 to P20. On the side of the respondents, one witness was examined as RW1 and two documents were marked as Exs.R1 and R2. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.3,23,000/- under various heads. Not satisfied with the same, the present appeal has been filed by the claimant seeking enhancement.

5. The learned counsel appearing for the appellant submitted that the appellant was working as a Driver (Heavy Vehicle) under the second respondent and due to rash and negligent driving of the third respondent, the appellant sustained grievous injuries. He further submitted that the Tribunal has not taken into account the appellant's inability to work in future and has given much less importance. He further submitted that the appellant has taken treatment for 77 days in the Hospital and the amount awarded by the Tribunal towards attender charges and loss of earning during the period of treatment are very minimal and the same has been awarded without



considering the injuries sustained by the appellant. Hence, the learned counsel for the appellant prays for enhancement of compensation.

6. The learned counsel appearing for the first respondent / Insurance Company submitted that the Insurance Company has denied the manner of accident and the injuries sustained by the appellant and the appellant is alone the responsible for the accident. He further submitted that the appellant / petitioner has to prove that there was a valid policy, valid permit and fitness on the said date and there was no violation of policy at the time of accident. Hence, the Tribunal, taking into consideration of all the relevant documents has rightly fixed the compensation, which does not require any interference.

7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

8. Admittedly, the present appeal has been filed by the claimant for enhancement of compensation and not on the part of negligence. The



appellant has taken treatment for 77 days, i.e., nearly for three months in the Hospital and the amount awarded by the Tribunal towards attender charges during the period of treatment is very minimal. Considering the nature of injuries sustained by the appellant, this Court is of the view that the amount of Rs.5,000/- is awarded by the Tribunal for attender charges is hereby enhanced to Rs.30,000/-.

9. Further, it is submitted that though the claimant was working as the Driver (Heavy vehicle) and was earning Rs.20,000/- per month and Ex.P.7- driving license has been produced to substantiate the same, the Tribunal has awarded a meagre sum of Rs.8,000/- as notional income. However, since no document such as bank statement is produced to prove the same, this Court is of the view that Rs.10,000/- could be fixed as notional income. Further, it is submitted that the claimant has taken treatment for 77 days, i.e., nearly for three months in the Hospital. Hence, the amount of Rs.16,000/- (2 X Rs.8,000/-) awarded towards loss of earning is hereby enhanced to Rs.30,000/- (3 X 10,000/-). This Court finds that the compensation awarded under the other heads are just and reasonable and does not require any interference.



C.M.A.No.4384 of 2019

10. In the above circumstances, the compensation awarded by the

Tribunal under the below mentioned heads are modified as under :-

S.No	Head of Compensation	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Transportation, Nourishing Food and Miscellaneous Expenditure	Rs.50,000/-	Rs.50,000/-
2.	Medical Expenses	Rs.1,669/-	Rs.1,669/-
3.	Future Medical Expenses	Rs.10,000/-	Rs.10,000/-
4.	Attenders Expenses	Rs.5,000/-	Rs.30,000/-
5.	Disability	Rs.1,65,000/-	Rs.1,65,000/-
6.	Loss of Earning during the period of treatment	Rs.16,000/-	Rs.30,000/-
7.	Damages for Pain, Suffering and Trauma	Rs.50,000/-	Rs.50,000/-
8	Loss of Amenities	Rs.25,000/-	Rs.25,000/-
	Total	Rs.3,22,669/- rounded off to Rs.3,23,000/-	Rs.3,61,669/- rounded off to Rs.3,62,000/-



C.M.A.No.4384 of 2019

11. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.3,23,000/- is hereby enhanced to Rs.3,62,000/- together with interest @ 7.5% per annum from the date of filing of Claim Petition till the date of deposit. The first respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.1303 of 2013 on the file of the Motor Accidents Claims Tribunal-II, Court of Small Causes, Chennai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making proper application before the Tribunal. No costs.

11.12.2023

Index :Yes / No

Speaking Order :Yes / No

Neutral Citation Case: Yes / No

vji



C.M.A.No.4384 of 2019

To

WEB COPY

1. The Motor Accidents Claims Tribunal-II,
Court of Small Causes,
Chennai.
2. The Section Officer,
V.R. Section,
High Court,
Chennai.



WEB COPY



C.M.A.No.4384 of 2019

M.DHANDAPANI, J.

vji

C.M.A.No.4384 of 2019

11.12.2023