

Nataraj Vs. Manikandan and Others

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Court : Chennai

Decided On : Aug-31-2012

Judge : The Honourable Mrs. Justice Aruna Jagadeesan

Appeal No. : CMA.No.1563 of 2002

Appellant : Nataraj

Respondent : Manikandan and Others

Advocate for Pet/Ap. : For the Appellant: N. Manokaran, Advocate. For the Respondents: -----.

Judgement :

(Prayer: This Civil Miscellaneous Appeal is filed against the Judgement and Decree dated 4.1.2002 made in MCOP.No.538/2000 by the learned I Additional Subordinate Judge (MACT) Erode.)

1. In spite of service of notice, there is no representation for the 3rd Respondent Insurance Company on 14.8.2012 and hence, the matter was ordered to be posted for passing orders and even today, when the matter is taken up consideration, there is no representation for the 3rd Respondent Insurance Company. Therefore, after hearing the learned counsel for the Appellant and after perusal of the records, this Civil Miscellaneous Appeal is being disposed of by this judgement.

2. This Civil Miscellaneous Appeal is filed against the Judgement and Decree dated 4.1.2002 made in MCOP.No.538/2000 by the learned I Additional Subordinate Judge (MACT) Erode, whereby the Tribunal awarded a sum of Rs.41,500/- as total compensation to the claimant for the injuries sustained by him in the accident that had occurred on 9.2.1997 at about 4.30 p.m. in Sengapalli to Uthukuli Road, near Ponnapuram Bridge, Uthukuli.

3. The claimant sustained head injury and fracture of right mandible. The wound certificate issued by Sri Ramakrishna Hospital, where the injured had taken treatment, shows that both the injuries are grievous in nature. He was admitted on 10.2.1997 and discharged on 19.2.1997. PW.2 Dr.V.P.Sundaravadivel assessed his disability at 15 per cent due to the mandible fracture suffered by the claimant. He has stated in his evidence that the claimant is not able to open his mouth fully and it is difficult for him to chew hard food articles and there is also disfiguration due to the fracture sustained by him. PW.3 Doctor S.Chandran, who examined the claimant for the resultant effect of the head injuries, has assessed the disability at 25 per cent permanent and partial and has given reasons for such assessment that the claimant complained severe headache and loss of memory and these symptoms would hamper with his normal manual work.

4. The claimant was aged 28 years old at the time of the accident and was doing agriculture, besides working as a cutting master in a Garment Factory, Tiruppur. The disability assessed by the Doctors appears to be reasonable taking into consideration the injuries sustained by the claimant. The Tribunal has awarded Rs.30,000/- for both the disability which requires to be enhanced and accordingly, it is enhanced to Rs.80,000/- and Rs.10,000/- awarded towards pain and suffering is enhanced to Rs.20,000/-. In addition to this, the award amounts of Rs.500/- and Rs.1000/- for transportation expenses and extra nourishment respectively awarded by the Tribunal are enhanced to Rs.2500/- and Rs.2500/- respectively. The Tribunal has not awarded any amount for the loss of amenities and loss of income during the period of treatment. Hence, Rs.10,000/- for the loss of amenities and Rs.9000/- for loss of income during period of treatment at the rate of Rs.3000/- for three months are awarded. In all, a sum of Rs.1,24,000/- as total compensation is awarded to the claimant with interest at 7.5 per cent p.a. from the

date of the claim petition till the date of realization for the enhanced amount.

5. In the result, this Civil Miscellaneous Appeal is allowed . The impugned award is enhanced from Rs.41,500/- to Rs.1,24,000/- as mentioned above. In all, the claimant is entitled to a total compensation of Rs.1,24,000/- (Rupees one lakhs twenty four thousand only) with interest 7.5% p.a. from the date of the claim petition till the date of realization for the enhanced amount. The Insurance Company is directed to deposit the enhanced award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit within a period of eight weeks from the date of receipt of a copy of this order and on such deposit being made, the claimant is entitled to withdraw the award amount with interest after giving credit to the amount already withdrawn if any by him. No costs.

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