

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

C.M.A.No.3264 of 2012

Jemma Muthukumaran ...Appellant/Petitioner

Vs.

1.V.K.Raman
2.United India Insurance Co. Ltd.,
Motor Third Party Claims Office,
38, Annasalai, Chennai-2. ...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.01.2003 made in M.C.O.P.No.34 of 1999, on the file of III Judge,Court of Small Causes, Motor Accidents Claims Tribunal, Chennai.

For Appellant : Mr.P.Deivendra
For Respondents : Mr.SK.Krishnamurthy for R-2
Exparte (R1)

J U D G M E N T

The short facts of the case are as follows:-

On 01.06.1998, at about 4.30 p.m., when the claimant and others were travelling in a car bearing Registration No. TCV 6006, on the Trichy Main Road, the driver of the car drove it in a negligent manner and dashed it against the oncoming lorry. As a result, the claimant had sustained injuries. Hence, the claim petition has been filed against the owner and insurer of the car.

2. The Insurance Company had filed a counter statement and resisted the claim petition. The Insurance Company submits that in the said accident, two vehicles were

involved, but the owner and insurance company of the other lorry involved in the accident have not been impleaded as necessary parties. As per the policy conditions, the claimant is not entitled to receive compensation. In the said accident, 4 passengers had sustained injuries. Hence, all the 4 claim petitions were tried together and common award was passed by the learned Tribunal, after framing two issues.

3. On the side of the claimants, 12 witnesses were examined and 81 documents were marked as exhibits. On the side of the respondents, no witness, no documentary evidence. After recording evidence of both sides and on perusing the exhibits, the Tribunal had granted a sum of Rs.1,61,000/- with interest, as compensation.

4. Not being satisfied with the quantum of compensation, the claimant has filed the above appeal.

5. The highly competent counsel Mr.P.Deivendra appearing for the claimant submits that the claimant had sustained 150% disability as certified by 4 doctors, who are practicing in 4 branches of medicine. The claimant's total face has been disfigured and multiple bone fracture injuries had been sustained on his right forearm. He had undergone treatment for about 15 days as an inpatient and subsequently as an outpatient. A surgical operation had been conducted on his right arm and another operation is required to remove the steel plate.

6. The highly competent counsel Mr.SK.Krishnamurthy appearing for the Insurance Company submits that in the said accident, a lorry also had been involved. As such, the owner and insurer of the lorry are necessary parties, but they have not been impleaded as necessary parties. The doctor had assessed the disability, which is on the higher side. However, the Tribunal had granted an adequate compensation to the claimant.

7. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on either side and on perusing the typed-set of papers, this Court is of the view that the claimant had sustained 150% disability as per the certificates issued by 4 doctors. Besides, a surgical operation had been conducted and his face has been disfigured permanently. Hence, this Court is inclined to grant additional compensation as follows:-

Rs.1,50,000/- towards disability; Rs.15,000/- towards pain and suffering; Rs.10,000/- towards transport; Rs.10,000/- towards attender charges; Rs.15,000/- towards loss

of earning during medical treatment period; Rs.39,000/- towards loss of amenities and loss of comfort as he had lost 3 of his teeth and as his face has been permanently disfigured. In total, this Court awards Rs.2,39,000/- as additional compensation with interest at the rate of 7.5% per annum from the date of filing the claim till date of payment of compensation. The appeal value is Rs.2,39,000/- and hence, the same is allowed.

8. This Court directs the second respondent/Insurance Company to deposit the said amount within a period of six weeks from the date of receipt of a copy of this order, into the trial Court. After such deposit being made, it is open to the claimant, to withdraw the said amount, after filing a Memo, along with a copy of this order.

9. In the result, the above appeal is allowed. There is no order as to costs.

sd/
ASSISTANT REGISTRAR(CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

r n s

To

1. The III Judge, Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.

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

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CO-TEJ
JD 18/11/2015