

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2015

CORAM

THE HON'BLE MR.JUSTICE C.S.KARNAN

C.M.A.No.505 of 2012

Baskaran

Appellant/Petitioner

Vs

1.D.Jothiprakasam

2.The Divisional Manager,
United India Insurance Company Ltd.,
Pondicherry. ... Respondents/Respondents.

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order passed by the Motor Accidents Claims Tribunal cum II Additional District Judge, Pondicherry in M.C.O.P.No.558 of 2002 dated 30.06.2003.

For Appellant : Mr.M.Devaraj

For Respondents: Mr.Baskaran (for R2)
R1 - Not Ready Notice

JUDGMENT

The appellant herein / claimant submits that when he was travelling on the mini lorry bearing Registration No.PYT 1886, on 29.01.2001 at about 1.00 p.m., and when the mini lorry was proceeding on the Chinna Kalapet main road, a cattle happened to cross the road suddenly. Hence, the driver of the lorry had applied sudden brakes and as a result the claimant was struck on the back side of the lorry. He further stated that he was travelling after unloading watermelon at Pondicherry. Hence, he has levelled a claim against the owner and insurer of offending lorry.

2.The Insurance Company has filed counter statement and denied the said accident. The Insurance Company further denied the contentions regarding age, income, nature of injuries and disability.

3. After considering the averments of both parties, the Tribunal had framed two issues. On the side of the claimant, two witnesses were examined and 9 documents were marked. On the side of the respondents, no witness, no documentary proof. After recording the evidence of the claimant and on perusing the exhibit marked by him, the Tribunal had awarded a sum of Rs.76,250/- as compensation with interest at the rate of 9% per annum. Not being satisfied with the quantum of compensation, the claimant has filed the above appeal and has sought additional compensation.

4. The highly competent counsel Mr.M.Devaraj appearing for the appellant submits that the accident had been committed by the driver of the lorry. Hence, a criminal case has been levelled against the driver of the lorry. In the said accident, the claimant had sustained grievous injuries on both legs. The Doctor had assessed the disability at 61%. The Tribunal had not granted an adequate compensation under the various heads.

5. The learned counsel Mr.Baskaran appearing for the Insurance Company submits that the claimant was travelling as a gratuitous passenger. Further, the Doctor had assessed the disability at 61% which is on the higher side. However, the Tribunal had granted an adequate compensation under the various heads.

6. 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 61% permanent disability as per Doctor's evidence. Considering this aspect, this Court is inclined to grant compensation as follows:-

Rs.1,22,000/- is awarded under the head of disability; Rs.25,000/- towards pain and suffering; Rs.10,000/- towards nutrition; Rs.10,000/- towards transportation; Rs.10,000/- towards attender charges; Rs.25,000/- towards loss of earning during medical treatment period; Rs.10,000/- towards medical expenses; Rs.50,000/- towards loss of amenities. In total, this Court awards Rs.2,62,000/- as compensation. After deducting initial compensation of a sum of Rs.76,250/-, this Court awards a sum of Rs.1,85,750/- as additional compensation to the claimant. This amount will carry interest at the rate of 7.5% per annum from the date of filing the claim petition till date of deposit.

7. This Court directs the Insurance Company to deposit the said amount within a period of eight weeks from the date of receipt of this order. After such deposit being made, it is open to the claimant to withdraw the entire compensation amount

with accrued interest thereon after filing a memo, along with a copy of this order.

8.In the result, the above appeal is partly allowed. Consequently, the order passed in M.C.O.P.No.558 of 2002, on the file of the Motor Accidents Claims Tribunal cum II Additional District Judge, Pondicherry, dated 30.06.2003, is modified. No costs.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Motor Accident Claims Tribunal cum
II Additional District Court,
Pondicherry.

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

+ 1 cc to Mr.Devaraj, Advocate SR 41725

+ 1 cc to Mr.D.Bhaskaran, Advocate SR 41661

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C.M.A.No.505 of 2012

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