

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08/09/2015

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THE HONOURABLE MR.JUSTICE C.S.KARNAN

C.M.A.No.1162 of 2013

R.Rangasamy

Appellant

Vs.

1.Jaganathan

2.Reliance General Insurance Company Limited,
15-A, Kanagu Tower,
Thillai Nagar 11th Cross,
Trichy - 18.

Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the Award made in M.C.O.P. No.49 of 2010, dated 17.08.2011, on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Virudhachalam.

For Appellant : M/s.S.Udayakumar
For Respondents : Mr.S.Arunkumar for R2
Not ready notice for R1

J U D G M E N T

The short facts of the case are as follows:-

On 13.03.2010, at about 05.00 a.m., when the petitioner was travelling on a tyre wheeled bullock cart near Vilankattur main road, the lorry bearing registration No.TN-30P-6834, driven by its driver in a rash and negligent manner, dashed against the backside of the bullock cart. As a result, the claimant had sustained multiple bone fracture injuries. Hence, the claim petition had been levelled against the owner and insurer of the offending lorry.

2. The Insurance Company had filed a counter statement and refuted the claim. The respondent stated that the lorry bearing registration No.TN-31P-6834 had not been involved in the said accident. Further, the driver of the lorry had not possessed valid driving licence and the said lorry has been covered under

valid documents namely RC, FC, and permit. The averments regarding age, income, occupation, nature of injuries and mode of treatment was also denied.

3. After considering the averments of both sides, the Tribunal had framed four issues and passed common award, since other claimants, who travelled in the bullock cart had also filed claim petitions. On the side of the claimants, 17 documents were marked in common and two witnesses were examined. On the side of the respondents, no witness, no documentary evidence. The Tribunal had awarded a sum of Rs.2,04,048/- as compensation with interest at the rate of 7.5% per annum. Not being satisfied with the quantum of compensation, the claimant has filed the above appeal.

4. The highly competent counsel Mr.S.Udayakumar, appearing for the claimant submits that the claimant's age was 41 years at the time of accident and he was involved in agricultural operations as a Coolie. The claimant sustained multiple bone fracture injuries in both his hand and his left hand had been demanded and totally disfigured. After the accident, he is unable to do his avocation as a Coolie. The Doctor had assessed the disability at 78%. The claimant had undergone treatment at two different hospitals, wherein he had undergone medical treatment as inpatient for a long period. The learned counsel for the claimant further submits that the claimant experiences frequent pain on his left arm and hence periodical medical treatment is required. To that effect the very competent counsel has produced two photographs. However, the Tribunal had not granted an adequate compensation under the relevant heads. Hence, the very competent counsel entreats the Court to grant adequate compensation. This Court grants a sum of Rs.15,000/- under the head of loss of income during medical treatment period; Rs.25,000/- towards pain and suffering; Rs.12,000/- under the head of attender charges; Rs.15,000/- towards transport; Rs.15,000/- towards nutrition; Rs.2,00,000/- under the head of loss of amenities and loss of comfort and disfigurement which is permanent in nature; Rs.18,000/- under the head of future medical expenses, since he requires periodical treatment for his continuous pain. Accordingly, this Court grants a sum of Rs.3,00,000/- and allows the appeal. This amount will carry interest at the rate of 7.5% per annum from the date of filing the claim petition till date of payment of compensation. This Court directs the Insurance Company to deposit the additional compensation amount with accrued interest thereon, as per this Court's findings within a period of six weeks from the date of receipt of a copy of this order before the Trial Court.

5. After such deposit being made, it is open to the claimants to withdraw the entire compensation amount with interest thereon, after filing a memo, along with a copy of this order. Hence, the above appeal is allowed. There is no order as to costs.

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s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
Principal Subordinate Judge, Virudhachalam.
2. The Section Officer/Record Keeper
V.R.Section, High Court, Madras.

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