

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2016

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.2015 of 2004

Manohar

...Petitioner/Appellant

Vs.

1. Seaman Fisheries Ltd.,
No.25, Mariadoss Nagar,
Royapuram, Chennai - 600 013.

2. The National Insurance Co. Ltd.,
No.66, Greams Road,
Chennai - 600 006.

.... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 24.04.1998 in MCOP.No.3732 of 1995 on the file of the Motor Accidents Claims Tribunal (VI Judge, Court of Small Causes), Chennai.

For Appellant : Mr.A.S.Viswanatha Rao
For Respondents : R1 - Dismissed vide order
dated 05.07.2010
R2 - No appearance

JUDGMENT

This appeal is filed by the claimant in MCOP.No.3732 of 1995 on the file of the Motor Accident Claims Tribunal (VI Small Causes Court), Chennai, challenging the award dismissing the entire claim.

2. The learned counsel for the appellant submitted that the appellant/claimant was a driver of an auto rickshaw bearing Registration No.TN09-3673, that on 11.06.1994 when he was on the job there was an accident involving his auto rickshaw and a car bearing Registration No. TN21-D-7777, in which the claimant/appellant suffered fracture to his left leg, injury to his right eye, besides disfigurement of his face, for which he obtained treatment as an in-patient for 25 days. In all, he made a claim for Rs.1,00,000/- as compensation whereas the Tribunal determined a sum of Rs.34,000/- as just and fair compensation but declined to pass an award for the sum so determined on the solitary ground that the claimant/appellant was negligent and

hence was not entitled to claim compensation for his own negligence.

3. Without disturbing the said finding of the Tribunal, the learned counsel for the appellant submitted that even in cases such as where the driver was found negligent he would be entitled to no fault compensation and accordingly he would be entitled to Rs.15,000/- as compensation. This submission merit consideration and this Court holds that the appellant would be entitled for no fault compensation.

4. In conclusion this appeal is partially allowed without costs and the respondents are jointly and severally liable to pay no fault compensation of Rs.15,000/- with interest @ 6% thereon. The respondent are directed to pay the amount within six weeks from the date of receipt of a copy of this order and on such deposit whereupon the claimant is entitled to withdraw the same forthwith.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

ds

To

1. The Motor Accidents Claims Tribunal,
Court of Small Causes No.VI
Chennai.

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

सत्यमेव जयते

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PVS (CO)
VR(11/5/2017)