



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1088 of 2017

Selvakumar

... Appellant/Claimant

Vs.

1.Subbaiah

2.Deva Anbu

3.The Branch Manager,
Oriental Insurance Company Ltd,
No.555-1, G.H.Road, Theni.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 29.01.2009 passed in MCOP.No.1048 of 1996 on the file of the Additional District Judge, Fast Track Court No.1, Madurai.

For Appellant : Mr.A.Muthukaruppan

For Respondent No.3 : Mr.K.Bhaskaran

JUDGMENT

Heard the learned counsel on either side.

2.The injured claimant has filed this appeal seeking enhancement of the compensation awarded to him. The claimant was aged 14 years at the time of accident. The offending vehicle was insured with the third respondent herein. The Tribunal has found that the third respondent is liable to satisfy the award. The said award has become final. The Tribunal however awarded a sum of Rs.10,000/- alone. Contending that this is very low, this appeal has been filed.

3.It is beyond dispute that the claimant suffered fractures on his left arm and multiple injuries all over the body. Unfortunately, the claimant did not examine the doctor who was treated him. He also did not adduce any proof with regard to the medical expenditure. That is why the Tribunal awarded a lump sum of Rs.10,000/- as compensation.



4.The learned counsel appearing for the claimant was praying a remand so that he could adduce further evidence in the matter. The accident took place way back in the year 1996. I therefore am of the view that no purpose will be served by remitting the matter to the file of the Tribunal. I directed the claimant to appear before me in person. There is a mall union of the bones and severe fractures in the left hand. He told that his avocation is that of a Tailor and that he is finding difficult to carry on his avocation.

5.The claimant had suffered double fracture. As an inpatient he would have spent some time in the hospital. He would have incurred some expenditure in the hospital. I am of the view that a sum of Rs.75,000/- can be given as a lump sum compensation. It is made clear that this sum will not carry any interest.

6.The judgment and decree dated 29.01.2009 passed in MCOP.No.1048 of 1996 on the file of he Additional District Judge, Fast Track Court No.1, Madurai is modified.

7.The third respondent insurer shall deposit a sum of Rs.75,000/- in full and final settlement of all the claims which the appellant may have, within a period of four weeks from the date of receipt of a copy of this order, less the amount already deposited if any. On such deposit, the claimant is entitled to withdraw the same, by filing proper application before the Tribunal, less the amount already withdrawn by him if any.

8.The learned counsel appearing for the appellant/claimant submits that he is having the copy of the insurance policy. The appellant is directed to furnish the copy of the same to the third respondent insurer so as to facilitate immediate disbursement of the compensation amount now awarded by this Court.

9.This civil miscellaneous appeal stands partly allowed. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Additional District Judge,
Fast Track Court No.1, Madurai.



2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 cc TO Mr.K.Bhaskaran , Advocate in SR No. 94438

skm

AE/RSK/SAR1/21.05.2018/3P/5C

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