



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.09.2017
CORAM

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

C.M.A (MD) No. 1211 of 2014

and

M.P. (MD) No. 2 of 2014

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V. Ravichandran

... Appellant / Petitioner

Vs

1. B. Vijayalakshmi

2. The Branch Manager,
United India Insurance Co-Ltd.,
Post Box No. 34, C.G. Complex,
No. 139, Kumaran Road,
Tiruppur.

... Respondents / Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree in M.C.O.P.No.336 of 2013 on the file of Special Subordinate Judge for M.C.O.P.Cases Madurai, dated 01.03.2014.

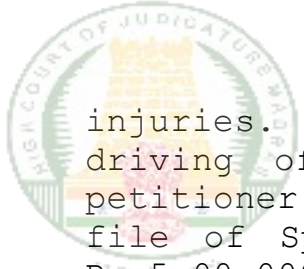
For Appellant	: Mr.K.Kumaravel
For Respondents	: No appearance for R.1
	: Mr.C.Jawahar Ravindran for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant against the judgment and decree in M.C.O.P.No.336 of 2013 on the file of Special Subordinate Judge for M.C.O.P.Cases Madurai, dated 01.03.2014.

2. The brief facts of the case are as follows:

It is a case of fatal in which the accident took place on 05.02.2013 at about 11.45 Hours. When the petitioner was riding his motorcycle bearing Registration No. TN-59-BZ-9383 nearing Munichalai when proceeding East to West, at that time, a lorry bearing Registration No.T.N.39 AS 8106 belonged to the first respondent, which was insured with the second respondent-Insurance Company, came in a rash and negligent manner and dashed against the petitioner and the petitioner sustained multiple grievous



injuries. The accident was caused due to the rash and negligent driving of the first respondent's driver alone. Hence, the petitioner filed an application in M.C.O.P.No.336 of 2013, on the file of Special Subordinate Judge, Madurai, seeking a sum of Rs.5,00,000/- as compensation.

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3. Before the Tribunal, on the side of the claimant, three witnesses viz., P.W.1 and P.W.3 were examined and sixteen documents viz., Exs.P.1 to P.16 were marked and on the side of the respondents, neither witness was examined and nor any document was marked.

4. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the offending vehicle and directed the second respondent Insurance Company to pay a sum of Rs.1,19,000/- to the claimant.

5. Against which, the appellant/claimant filed the present appeal for enhancement of compensation.

6. The learned counsel appearing for the appellant/ claimant would submit that the Tribunal awarded very meagre amount for 32% disability and the award amount under other head is also very meagre. Hence, he prays for enhancement of compensation.

7. The learned Counsel for the second respondent Insurance Company would submit that based on the oral and documentary evidences, the Tribunal has correctly come to the conclusion and awarded just and reasonable compensation and hence, the award passed by the Tribunal deserves no interference and hence, this appeal has to be dismissed.

8. Heard the learned counsel appearing on both sides and perused the materials available on record.

9. A perusal of the award passed by the Tribunal, it is seen that for 32% disability, the Tribunal has awarded a sum of Rs.2,000/- for each percentage of disability, which is in the considered opinion of this Court, very meagre. Relying upon the judgment of this Court in **National Insurance Company Limited v. G.Ramesh and another** reported in **2013 (2) TN MAC 583**, this Court is inclined to grant a sum of Rs.3,000/- (Rupees Three Thousand only) for 1% disability. Hence, a sum of Rs.96,000/- (Rs.3000/-x32%) is awarded for 32% disability sustained by the injured claimant. Considering the pain and sufferings undergone by the injured claimant due to the accident, this Court is of the view that the amount awarded towards this heads is very meagre,

hence the same is enhanced from Rs.10,000/- to Rs.50,000/-. The Doctor who has treated the injured claimant has given evidence that approximate expenses for future medical expenses is more than a sum of Rs.50,000/-, however the Tribunal has given only a sum of Rs.30,000/- towards future medical expenses and hence, this Court is inclined to enhance the same to Rs.50,000/-. Further the Tribunal has not awarded any amount towards medical bills, inspite of the injured claimant produced the medical bills for Rs.4,700/-. Hence, this Court is inclined grant the same as medical bills. Further the Tribunal has not awarded any amount towards loss of amenities, hence, this Court is incline to grant a sum of Rs.5,000/- towards the same. The amounts awarded under other heads stand unaltered.

10. In view of the above, this Court modifies the award of the Tribunal by enhancing the compensation as under:

S.No	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced or granted
1.	For Transport to hospital	5,000	5,000	confirmed
2	For extra nourishment	10,000	10,000	confirmed
3	For pain and sufferings	10,000	50,000	enhanced
4	For future medical expenses	30,000	50,000	enhanced
5	For partial permanent disability	64,000	96,000	enhanced
6	For medical expenses	--	4,700	granted
7	For loss of amenities	--	5,000	granted
	Total	1,19,000	2,20,700	By enhancing a sum of Rs.1,01,700

11. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the compensation from Rs.1,19,000/- to Rs.2,20,700/-, passed in M.C.O.P.No.336 of 2013, dated 01.03.2014, on the file of the Special Subordinate Judge for M.C.O.P. Cases, Madurai. The second respondent Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the appellant - claimant is permitted to withdraw the entire



award amount, with accrued interests and costs without filing any formal petition before the Tribunal. No Costs. Consequently, the connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

The Special Subordinate Judge for M.C.O.P. Cases,
Madurai.

Copy to:

The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.C.Jawahar Ravindran, ADVOCATE IN SR No.76906

+ 1 CC TO MR.K.Kumaravel, ADVOCATE IN SR No.77097

MK/JC/SAR-1/24.10.2017/4P/5C

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