



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.144 of 2015

P.Selvaraj

... Appellant

Vs.

1.M/s.Vijaya Enterprises,
No.18/B-1, New Ramnad Road,
Anupanadi, Madurai District.

2.M/s.Royal Sundaram Alliances
Insurance Co., Ltd,
Rep.by is Branch Manager,
No.37, Krishna Rao Tank Street,
Cooperative stores building,
TVS, Madurai District.

... Respondents

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation awarded in MCOP.No.1238 of 2009, dated 27.03.2014 on the file of the Motor Accidents Claims Tribunal, (V Additional District and Sessions) Madurai.

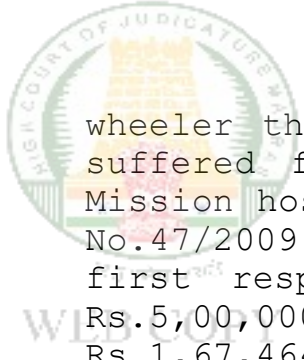
For Appellant : Mr.C.K.M.Appaji

For Respondents : Mrs.K.R.Shivasankari for
Mr.S.Srinivasa Raghavan for R2
No appearance for R1

JUDGMENT

The claimant aggrieved by the inadequate compensation awarded to him has filed this appeal challenging the award dated 27.03.2014 made MCOP.No.1238 of 2009 on the file of the Motor Accidents Claims Tribunal, (V Additional District and Sessions) Madurai.

2.The claimant was travelling in a two wheeler on 27.03.2009 on the Rameswaram main road when the TATA Ace vehicle belonging to the first respondent dashed against the two



wheeler that was ridden by the appellant/claimant. The claimant suffered fractures. He was an inpatient in Madurai Meenakshi Mission hospital as well as the Preethi hospital, Madurai. Crime No.47/2009 was registered against the driver employed by the first respondent herein. The claimant claimed a sum of Rs.5,00,000/-. But, the Tribunal awarded only a sum of Rs.1,67,464/- with interest. Contending that the compensation awarded is inadequate, this appeal has been filed.

3. Heard the learned counsel for the parties.

4. Negligence was rightly fixed on the driver of the first respondent. The said finding has become final. The offending vehicle was insured with the second respondent. Therefore, the second respondent is liable to satisfy the award.

The question is the quantum of compensation that has to be given to the claimant. The Court below ought to have held that the claimant has suffered 44% disability. The claimant has marked Ex.P20 in respect of the said claim. There was no justification for reducing the same to 34%. Therefore, the compensation payable to the claimant is liable to be re-worked as under :

Sl.No	Heads	Amount in Rupees
1.	Towards treatment	Rs.87,964/-
2.	For permanent disability (44x3000)	Rs.1,32,000/-
3.	For transportation	Rs.5,000/-
4.	For pain and sufferings	Rs.25,000/-
5.	For attender charges	Rs.5,000/-
6.	For extra nourishment	Rs.5,000/-
7.	For damage of articles and clothes	Rs.1,000/-
8.	For loss of income	Rs.10,000/-
	Total	Rs.2,70,964/-

5. The compensation payable to the claimant is enhanced from Rs.1,67,464/- to Rs.2,70,964/-. The second respondent is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum with costs from the date of petition till date of realization, within a period twelve 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.



7. The award dated 27.03.2014 made in MCOP.No.1238 of 2009 on the file of the Motor Accidents Claims Tribunal, (V Additional District and Sessions) Madurai is modified and this Civil Miscellaneous Appeal is partly allowed as indicated above. No costs.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal,
(V Additional District and Sessions) Madurai

2. The Record Keeper,
Madurai Bench of Madras High Court,
Madurai.

3 M/s.Vijaya Enterprises,
No.18/B-1, New Ramnad Road,
Anupanadi, Madurai District.

+1 cc to Mr.C.K.M.Appaji, Advocate SR.No.83794

+1 cc to Mr.S.Srinivasa Raghavan Advocate SR.No.83851

C.M.A. (MD) No.144 of 2015
26.10.2017

SMA/JC/SAR-4/28.12.2017:3P/6C