



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2017

CORAM :

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.M.A. (MD) No. 428 of 2015

and

M.P. (MD) No. 1 of 2015

S. Basheer Mohamed

... Appellant/Respondent

Vs.

Jeyasingh

... Respondent/Petitioner

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, to set aside the order passed in M.C.O.P.No.265 of 2013 on the file of Motor Accidents Claims Tribunal (1st Additional District Court,) Tirunelveli dated 30.04.2014.

For Appellant

: Mr.M.P.Senthil

For Respondent

: Mr.K.Rajeshwaran

JUDGMENT

This civil miscellaneous appeal is directed against the award dated 30.04.2014 made in M.C.O.P.No.265 of 2013 on the file of Motor Accidents Claims Tribunal (1st Additional District Court,) Tirunelveli.

2.The respondent is the claimant. According to him, he met with an accident on 02.01.2013. It was alleged that the appellant herein rode the offending vehicle. The claimant suffered fractures in his left leg. He sought compensation of a sum of Rs.5,00,000/-. The appellant herein filed his counter opposing the said petition. The Tribunal awarded a sum of Rs.1,88,000/- with interest. Questioning the same, this appeal has been filed.

3.The appellant admittedly did not insure his vehicle. Section 146 of Motor Vehicles Act, 1988 prohibits the use of uninsured vehicle in a public place. Admittedly, the appellant is guilty of the said lapse. The Tribunal has given a finding based on the deposition of the claimant and also Ex.P1 FIR that the accident in question took place on account of the rash and negligent riding of the two wheeler by the appellant. There is no reason to take a different view.

4.The next question is regarding the compensation payable to the claimant. The claimant was aged about 72 years at the time of filing the petition. He had taken treatment as an inpatient for more than 8 days. He had also taken native treatment. Even though Ex.P6 has been filed indicating that the claimant has suffered 25% partial permanent disability, the Tribunal was not justified in adopting multiplier method. It is not a case of functional disability caused as a result of the accident. The



claimant was admittedly 72 years when the accident took place. Therefore, the question of he is suffering loss of income cannot arise.

5.The compensation payable to him can be reworked as under:

Sl.No.	Head	Award Amount in Rs.
1.	Pain and Suffering	25,000
2.	Transportation Charges	5,000
3.	Extra Nourishment	5,000
4.	Medical Expenses	85,525
	Total	1,20,525

6.In the result, the civil miscellaneous appeal is partly allowed and the award dated 30.04.2014 in M.C.O.P.No.265 of 2013 on the file of Motor Accidents Claims Tribunal (1st Additional District Court,) Tirunelveli is reduced from Rs.1,88,000/- to 1,20,525/- as indicated above. The appellant is directed to deposit the compensation amount with accrued interest at 7.5% per annum from the date of claim petition till the date of realization to the credit of M.C.O.P.No.265 of 2013 on the file of Motor Accidents Claims Tribunal (1st Additional District Court,) Tirunelveli, within a period of twelve weeks from the date of receipt of a copy of this order, if the award amount is not deposited already. On such deposit, the respondent is permitted to withdraw the entire compensation with accrued interest, by filing proper application before the Tribunal, less the amount already withdrawn by him. The appellant is entitled to be refunded the balance award amount, if any. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The 1st Additional District Judge,
Motor Accidents Claims Tribunal , Tirunelveli.

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

+One cc to Mr.M.P.Senthil, Advocate, SR.No.82748

+One cc to Mr.K.Rajeshwaran, Advocate, SR.No.82820

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