



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.517 of 2016

Vasu

... Appellant/Petitioner

Vs.

1. A.Indumathi

2. Bajaj Alliance General Insurance Company,
Karaikkal

Represented by its Branch Manager ... Respondents/Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 13.09.2011 made in M.C.O.P.No.369 of 2009 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Kumbakonam and praying to set aside the same.

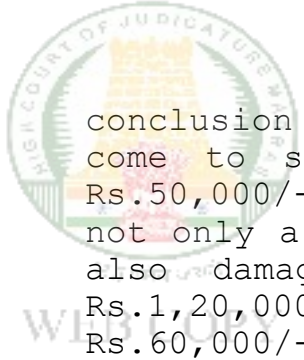
For Appellant	: Mr.S.Siva Thilakar
For R-1	: No appearance
For R-2	: Mr.J.S.Murali

JUDGMENT

Heard the learned counsel on either side.

2. The claimant has filed this appeal seeking enhancement of the compensation awarded to him by the Tribunal. The claimant had put up his house-cum-shop in Narasingampatti Village, Thiruvidaimarudhur Taluk, Thanjavur District. On 31.12.2008 at about 07.30 A.M, a bus belonging to the first respondent and insured with the second respondent was driven in rash and negligent manner and dashed against the claimant premises. The premises suffered damage. Claiming damages for the loss caused to his property, the claimant filed M.C.O.P.No.369 of 2009 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Kumbakonam. The Tribunal awarded a sum of Rs.60,000/-. Contending that this is not adequate, this Civil Miscellaneous Appeal has been filed.

3. It is seen that the claimant had examined himself as P.W.1. He also marked the Certificate issued by the Village Administrative Officer to come into establish that his house has suffered damage. He also marked Ex.P.4 that a substantial sum would be required for repairing the damage. The Tribunal came to the



conclusion that a sum of Rs.1,00,000/- would be required. Having come to such a conclusion the Tribunal awarded only a sum of Rs.50,000/- since only a part of the wall was damaged. In this case not only a portion of the house but also a portion of the shop was also damaged. I am therefore of the view that a sum of Rs.1,20,000/- can be awarded as compensation. In this case only Rs.60,000/- was awarded. The same is enhanced to Rs.1,20,000/-. In other words the claimant is entitled to a further sum of Rs.60,000/- over and above what was already awarded in Tribunal.

4. Therefore, the award dated 13.09.2011 made in M.C.O.P.No.369 of 2009 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Kumbakonam is modified, as indicated above.

5. The second respondent insurance company is directed to pay the entire amount of Rs.1,20,000/- (Rupees one lakh twenty thousand only) with interest at the rate of 7.5% per annum and costs from the date of petition till the date of realization within a period of eight 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 entire amount, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

6. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Kumbakonam.

Copy To:

The Section Officer, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.J.S.MURALI, ADVOCATE IN SR No. 90011
+ 1 CC TO Mr.S.SIVATHILAKAR, ADVOCATE IN SR No. 89812

KMI

TE/KKR/SAR-3 : 23/05/2018 : 2P/6C

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