



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.663 of 2015

&

MP (MD) No.2 of 2015

and

Cros.Obj. (MD) No.25 of 2016

1.The Dean

Thanjavur Medical College Hospital,
Thanjavur.

2.The District Collector,
Thanjavur.

... Appellants in
C.M.A. (MD) No.663 of 2015
and

... Respondents in
Cros.Obj. (MD) No.25 of 2016/Respondents

Vs.

K.Babu

... Respondent in
C.M.A. (MD) No.663 of 2015
and
... Cross Objector in
Cros.Obj. (MD) No.25 of 2016/Claimant

Common Prayer: Civil Miscellaneous Appeal (MD) No.663 of 2015 is filed under Section 173 of the Motor Vehicles Act, 1988 and Cross Objection (MD) No.25 of 2016 is filed under Order 41 Rule 22 C.P.C, to set aside the judgment and decree dated 03.12.2013 passed in M.C.O.P.No.1 of 2011 on the file of the Motor Accident Claims Tribunal / Special Sub Judge, Thanjavur.

For Appellants
in CMA and Respondents
in Cross Objection : Mr.D.Muruganantham,
Addl. Govt. Pleader

For Respondent in
CMA and Cross Objector
in Cross Objection : Mr.D.Veerasekaran

**JUDGMENT**

Civil Miscellaneous Appeal (MD) No.663 of 2015 has been filed by the respondents in M.C.O.P.No.1 of 2011 and Cross Objection (MD) No.25 of 2016 has been filed by the claimant in M.C.O.P.No.1 of 2011, questioning the award dated 03.12.2013 made in MCOP.No.1 of 2011 on the file of the Motor Accident Claims Tribunal Special Subordinate Judge, Thanjavur.

2.The respondent/claimant in C.M.A.(MD) No.663 of 2015 filed the said claim petition. The claimant was travelling in a two wheeler on 14.09.2009 when the Drug Ambulance belonging to the first appellant hospital dashed against them and caused the accident in question. The claimant suffered fracture in his leg. Crime No.206 of 2009 was registered against the driver of the ambulance.

3.The Tribunal fixed the negligence on the driver employed by the hospital. It is true that photocopy of the final report closing the case as mistake of fact was filed. But the appellants failed to examine the Investigating Officer. On the other hand, the claimant examined not only himself but also the rider of the two wheeler. After taking into account the entire facts and circumstances, the Tribunal came to the conclusion that the driver of the ambulance was responsible. There is no need to interfere with the said finding. The same stands confirmed.

4.Insofar as the quantum of compensation is concerned, even though the claimant sought payment of a sum of Rs.7,00,000/-, the Tribunal awarded only a sum of Rs.76,000/- towards compensation for 38% disability suffered by him. However, I am of the view that the he should have been awarded as $\text{Rs.3000} \times 38 = \text{Rs.1,14,000/-}$. The claimant was taking treatment as inpatient for 53 days. Therefore the compensation for pain and suffering should have been given Rs.50,000/- instead of Rs.20,000/-. Instead of Rs.22,500/- for loss of income, it should have been quantified at Rs.40,000/-. For transportation expenses, Rs.5,000/- can be awarded. A Sum of Rs.5,000/- can be awarded for extra nourishment. Thus, the compensation payable to the claimant would come to Rs.2,14,000/-.

5.Accordingly, there is no merit in the appeal in C.M.A.(MD) No.663 of 2015 and the same is dismissed. Cross Objection(MD) No.25/2016 stands allowed as indicated above. The first appellant in C.M.A.(MD) No.663 of 2015 is directed to deposit the enhanced compensation amount with interest @ 7.5% per annum from the date of petition till the date of realization to the credit of M.C.O.P.No.1 of 2011 on the file of the Motor Accident Claims Tribunal / Special Sub Judge, Thanjavur, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire compensation by filing



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proper application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL. SIDE)

/True Copy/

Sub Assistant Registrar

To

The Special Subordinate Judge,
Motor Accident Claims Tribunal, Thanjavur.

+1cc to Mr.D.VEERASEKARAN Advocate in SR. No. 83264

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 83528

SKM

JS/JC/SAR.3/20.11.2017/3P-4C

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