



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :18.07.2017
CORAM

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

C.M.A. (MD) No.1225 of 2013

WEB COPY

Ravi ... Appellant / Petitioner

Vs.

1. Sathish Kumar

2. The New India Assurance Company Limited,
through its Branch Manager,
First Floor, Pillars Gate,
Balamore Road,
Nagercoil.

... Respondents / Respondents

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree, dated 03.10.2011 passed in M.C.O.P.No.235 of 2011 by the Motor Accident Claims Tribunal, (Additional District Court/Fast Track Court No.2), Tirunelveli.

For Appellant
For R2

: Mr.T.Selvakumaran
: Mr.B.VijayaKarthikeyan

JUDGMENT

The appeal is directed against the judgment dated 03.10.2011 passed in M.C.O.P.No.235 of 2011 by the Motor Accident Claims Tribunal, (Additional District Court/Fast Track Court No.2), Tirunelveli.

2. The case of the claimant in the petition is briefly as follows:

On 13.12.2010 at about 3.15 a.m., the petitioner/claimant was travelling in a maxi cab bearing registration No.TN 74 M 6800, belongs to the first respondent and insured with the second respondent, from Coimbatore to Nagercoil. When the van was coming in between Virudhunagar and Sattur, it was driven by its driver in a rash and negligent manner and stopped the van in a Odai, as a result of which, he sustained grievous injuries. Hence, he filed a petition before the Tribunal claiming a sum of Rs.25,00,000/-.

3. Before the Tribunal, on the side of the petitioner, P.Ws.1 & 2 were examined and Exs.P1 to P12 were marked. On the side of the respondents, R.W.1 was examined and Ex.R1 was marked.



4. On a careful consideration of the evidence on record, the learned Tribunal has awarded a sum of Rs.4,51,000/- as compensation with interest at the rate of 8%. Not satisfied with the quantum of award, the appeal has been filed by the appellant/claimant.

5. The learned counsel for the appellant/claimant would submit that the victim sustained injuries and he was treated by P.W.2-doctor, who examined him and gave the disability certificate under Ex.P11. On the basis of Ex.P11, the disability is assessed at 55%. The learned counsel relied on the Judgment rendered in **2013 (2) TN MAC 583 (NATIONAL INSURANCE Co. Ltd., v. G.RAMESH)**, wherein it has been held that a sum of Rs.3,000/- should be fixed for 1% of disability, but it has awarded only a sum of Rs.80,000/- for partial disability of 55%.

6. Considering the above submission, this court is of the considered view that the compensation awarded for partial permanent disability can be fixed at Rs.3,000/- per 1% percentage. Hence, the award of the trial Court regarding partial permanent disability at Rs.80,000/- is enhanced to Rs.1,65,000/-.

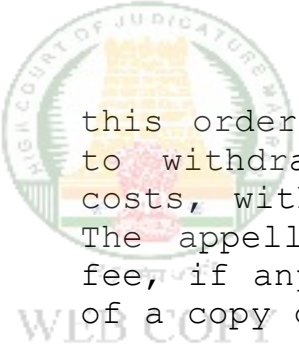
7. For transportation, the Tribunal has awarded a sum of Rs.2,000/-, which is not reasonable and hence, the same is enhanced to Rs.5,000/-.

8. The learned counsel for the appellant submitted that the Tribunal has not awarded any amount for loss of amenities.

9. Considering the submission made by the learned counsel for the petitioner, a sum of Rs.20,000/- is awarded for 'loss of amenities'.

10. Regarding loss of income (for 4 months), the Tribunal has awarded a sum of Rs.16,000/-; and awarded a sum of Rs.2,000/- for extra-nourishment; and Rs.25,000/- for pain and sufferings; and a sum of Rs.3,26,000/- was awarded for Medical Expenses, which are reasonable and so they are confirmed.

11. The award of the Tribunal is enhanced to Rs.5,59,000/- from Rs.4,51,000/-. Regarding the interest, the learned counsel for the second respondent would submit that the appellant is entitled only to 7.5% interest and hence, the same is reduced to 7.5% from 8%. Thus the claimant is entitled to the modified compensation of Rs.5,59,000/-. The second respondent / New India Assurance Company is directed to deposit the entire award amount, less the amount already deposited, with accrued interest at the rate of 7.5% per annum, from the date of petition till the date of realization, within a period of six weeks from the date of receipt of a copy of



this order. On such deposit being made, the claimant is entitled to withdraw the award amount with proportionate interest and costs, without filing any formal petition before the Court below. The appellant/claimant is directed to pay the additional Court fee, if any, within a period of two weeks from the date of receipt of a copy of this Judgment.

12. In the result, the Civil Miscellaneous appeal is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Additional District Judge,
Motor Accident Claims Tribunal,
Tirunelveli.
2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.T.Selvakumaran, ADVOCATE IN SR No.66046
+ 1 CC TO MR.B.VijayaKarthikeyan, ADVOCATE IN SR No.66101
rj2
MK/MR KKR/SAR-1/11.10.2017/3P/5C

C.M.A. (MD) No.1225 of 2013
18.07.2017