



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.1471 of 2013

WEB COPY

Gangaimuthu

... Appellant / Petitioner

Vs.

1. Velusamy

2. The Divisional Manager,
United India Insurance Co.. Ltd.,
No.1, Post Office Road,
Palayamkottai.

...Respondents / Respondents

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the order and decree made in M.C.O.P.No.1062 of 2011 on the file of the Motor Accident Claims Tribunal(4th Additional District Court), Tirunelveli, dated 23.04.2012.

For Appellant

: Mr.T.Selvakumaran

For R-1

: No Appearance

For R-2

: Mr.N.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award of the Motor Accident Claims Tribunal((IV Additional District Court), Tirunelveli passed in M.C.O.P.No.1062 of 2011, dated 23.04.2012.

2. It is a case of injury sustained by the injured/claimant in an accident, which took place on 17.08.2011 at about 4.30 p.m., on the North Bye-pass road near Parani Nagar.

3. It is the case of the claimant before the Tribunal that on the date of accident, when the injured was walking on the left side of the road, the two-wheeler bearing registration No.TN 72 L 0441, which came from the opposite direction, came in a rash and negligent manner and dashed against the injured and caused the accident and in the said accident, the injured sustained grievous injuries.

4. The claimant filed an application in M.C.O.P.No.1062 of 2011 on the file of the the Motor Accident Claims Tribunal (IV Additional District Court), Tirunelveli, seeking compensation.

5. Before the Tribunal, the appellant/claimant examined two witnesses as P.Ws.1 and 2 and marked twelve documents as Ex.P.1 to



Ex.P.12. The respondents did not let in any oral or documentary evidences.

6. The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the rider of the two-wheeler and therefore directed the second respondent/Insurance Company to pay a sum of Rs.69,000/-, as compensation.

7. Against which, the appellant/claimant filed this present appeal seeking enhancement of compensation.

8. The learned counsel for the appellant/claimant would submit that the victim sustained injuries and he was treated by P.W.2-Doctor. The Doctor had issued the Disability Certificate under Ex.P11 assessing the partial permanent disability at 30%. The learned counsel for the appellant relied on the Judgment rendered in **P.Elangovan vs. S.Murali and two others** reported in **2017 (1) TN MAC 251**, wherein it has been held that a sum of Rs.3,000/- should be fixed for 1% disability, but the Tribunal had awarded only a sum of Rs.30,000/- for disability of 30%.

9. Considering the above submission, this Court fixes a sum of Rs.3,000/- (Rupees Three Thousand Only) for 1% disability and awards a sum of Rs.90,000/- (Rupees Ninety Thousand Only), towards disability and the other heads are confirmed.

10. In view of the above, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For loss of income during treatment period	27,000	27,000	confirmed
2.	For transportation	1,000	1,000	confirmed
3.	For Extra Nourishment	1,000	1,000	confirmed

4.	For pain and sufferings	10,000	10,000	confirmed
5.	For partial permanent disability	30,000	90,000	Enhanced
	Total	Rs.69,000	Rs.1,29,000	By enhancing a sum of Rs.60,000/-

11. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from **Rs.69,000/-** (Rupees Sixty Nine Thousand only) to a sum of **Rs.1,29,000/-** (Rupees One Lakh and Twenty Nine Thousand only) along with interest at the rate of 8% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The second respondent/Insurance Company is directed to deposit the entire award amount of **Rs.1,29,000/-** (Rupees One Lakh and Twenty Nine Thousand only) with accrued interests and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the entire award amount, with accrued interests and costs, without filing any formal application before the Tribunal. No Costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To,

The Additional District Judge,
Motor Accident Claims Tribunal
(IV Additional District Court),
Tirunelveli

Copy to

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

+1cc to Mr.N.Sivakumar , Advocate Sr.No.73285

PM

VB/MR/KKR/SAR1/12/09/2017/3P/4C

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