



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.09.2017
CORAM

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

C.M.A (MD) No. 1581 of 2011

WEB COPY

P. Ramalingam

... Appellant / Claimant

Vs.

1. K. Venkatachalam

2. The Branch Manager,
M/s. Oriental Insurance Company Ltd.,
Represented by its Divisional Manager,
1838, South Street,
Thanjavur.

... Respondents/ Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decretal order made in M.C.O.P.No.318 of 2009 dated 28.01.2011 by the Motor Accidents Claims Tribunal [I- Additional District Sessions Judge (EC Court)], Thanjavur.

For Appellant	: Mr.G.Karnan
For R-1	: No Appearance
For R-2	: Mr.K.Bhaskaran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award made in M.C.O.P.No.318 of 2009 dated 28.01.2011 by the Motor Accidents Claims Tribunal [I- Additional District Sessions Judge (EC Court)], Thanjavur.

2. It is a case of injury sustained by the injured in an accident, which took place on 10.07.2003 at about 4.00 p.m., at Kantharvakottai-Muthugulam road, near South Bank, Veeradipatti.

3. It is the case of the injured/claimant before the Tribunal that when he was travelling in the bus bearing Registration No.TN 49 F 4900, the bus was driven by its driver in a rash and negligent manner and caused the accident and in the said accident, the injured/claimant and all other passengers were thrown out from the bus and sustained injuries.

4. The injured/claimant filed an application in M.C.O.P.No.318 of 2009 before by the Motor Accidents Claims Tribunal [I- Additional District Sessions Judge (EC Court)], Thanjavur, seeking



compensation for the injuries sustained by him.

5. Before the Tribunal, the claimant examined four witnesses as P.Ws.1 to 4 and marked ten documents as Ex.PA1 to Ex.A10 and on the side of the respondents, one witness was examined as R.W.1 and no document was marked on their side.

6. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the claimant did not prove that he sustained injuries in the accident and therefore, dismissed the claim petition filed by the injured/claimant.

7. Against which, the appellant/claimant has filed this present appeal against the dismissal of the claim petition and for awarding compensation.

8. The learned counsel appearing for the appellant/claimant submitted that the Tribunal erred in dismissing the claim petition filed by the claimant, without considering the fact that the claimant sustained injuries in the accident occurred on the date of accident. He further submitted that for the person, who injured in the same accident, the Tribunal awarded a sum of R.55,000/- along with interest at the rate of 7.5% per annum and against which, the Insurance Company has filed a Civil Miscellaneous Appeal in C.M.A(MD)No.98 of 2011 and this Court has also confirmed the award passed by the Tribunal vide judgment dated 08.04.2013 and against which, no appeal is filed by the Insurance Company till date.

9. The said fact has also accepted by the learned counsel appearing for the second respondent/Insurance Company.

10. Heard the submissions made on either side and perused the materials available on record.

11. This Court is of the view that there is some force in the arguments advanced by the learned counsel for the appellant/claimant and therefore, ends of justice would be met, if some compensation is awarded for the appellant/claimant. Therefore, by following the judgment passed in C.M.A(MD)No.98 of 2011, dated 08.04.2013, this Court is inclined to award a sum of Rs.55,000/- to the appellant/claimant, with interest at the rate of 7.5% per annum from the date of petition, till realisation.

12. In the result,

<https://hcservices.courts.gov.in/hcservices/civil> Civil Miscellaneous Appeal is allowed and the award dated 28.01.2011 passed in M.C.O.P.No.318 of 2009 on the file of the Motor Accident Claims Tribunal [I- Additional District



Sessions Judge (EC Court)], Thanjavur, is hereby set aside and a sum of Rs.55,000/- is awarded to the appellant/claimant, with interest at the rate of 7.5% per annum from the date of petition, till realisation.

(ii) The second respondent/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the appellant/claimant is permitted to withdraw the said amount with accrued interests and costs. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The I- Additional District Sessions Judge (EC Court),
The Motor Accidents Claims Tribunal,
Thanjavur.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.K.Bhaskaran, ADVOCATE IN SR No.75879
+ 1 CC TO MR.G.Karnan, ADVOCATE IN SR No.76317
MK/MR KKR/SAR-2/23.10.2017/3P/5C

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