

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.1688 of 2006 and
C.M.P.No.7422 of 2006

1.Sri Vasanth
2.United India Insurance Company Limited,
Branch Office - III,
137-D, Cherry Road,
Salem - 1. ...1st & 2nd Appellants 1st & 2nd Respondents

..Vs..

Sri Senthil ...Respondent/ Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 17.03.2005 in M.C.O.P.No.624 of 2003 on the file of Motor Accidents Claims Tribunal, Additional Sub-Court, Salem.

For Appellants: Mr.S.Arunkumar

For Respondent: Mrs.Zeanath Begum for Mr.V.Rajesh

JUDGMENT

The appellants are the owner of the offending vehicle and it's insurer United India Insurance Company, Salem. They have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988, questioning the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Additional Sub-Court, Salem in M.C.O.P.No.624 of 2003 dated 17.03.2005.

2.The brief case of the respondent/claimant is as follows:

On 07.06.2003, the respondent/claimant was travelling as a passenger in a bus belonging to the first appellant on Edappadi - Poolampatti road. When he was nearing Kollampatti bus stand, the driver of the bus drove the vehicle rashly and negligently, as a result of which, the respondent/claimant was thrown out of the bus and sustained injuries.

3.According to the respondent/claimant, the rash and negligent driving of the driver of the first appellant was the cause of the accident and since the bus was insured with the second respondent, both the appellants in the present appeal are jointly and severally liable to pay compensation to him. The appellants filed a counter

denying all the allegations of the respondent/claimant. The Tribunal after analysing the evidence on record, awarded a compensation of Rs.91,750/-, which according to the appellants is on the higher side.

4.Mr.S.Arunkumar, learned counsel appearing for the appellant would contend that the first respondent/claimant had suffered only the following simple injuries:

- "1.A confusion over the upper lip - loosening of two teeth - left upper row bleeding
- 2.A lacerated wound over the chin 5 x 2 x 1 cm bleeding
- 3.A lacerated wound over the left eyebrow 2 x 1 cm
- 4.A lacerated wound over the forehead left side 3 x 2 x 1 cm bleeding
- 5.Multiple abrasions over the forehead and face
- 6.Abrasion on both knee 3 x 3 cm
- 7.Multiple abrasion over the left elbow and forearm
- 8.Bleeding from right ear. Person is unconscious. Odour of alcohol"

Therefore, he contended that the trial court is totally wrong in adopting multiplier method.

5.Per contra, Mrs.Zeanath Begum, learned counsel appearing for the respondent/claimant would contend that the award amount passed by the trial court is perfectly in order and does not require any interference by this court.

6.A perusal of the wound certificate (Ex.A5) shows that except injury no.1, other injuries were found to be simple in nature. Therefore, the trial court is wrong in applying multiplier method. However, a perusal of the disability certificate (Ex.A6) shows that Dr.Shanmugapriya (P.W.2) has assessed the partial permanent disability as 30%. The respondent/claimant has lost 2 teeth on left upper row. Therefore, the trial court is not right in reducing the partial permanent disability as 20% for the loss of teeth. Therefore, the respondent/claimant is entitled only to a sum of Rs.90,000/- towards partial permanent disability.

7. The trial court has awarded a sum of Rs.2,000/-, Rs.2,000/-, Rs.750/- and Rs.250/- towards pain and sufferings, extra nourishment, transportation charges and loss of articles respectively which appear to be very meagre in the considered opinion of this court. It is pertinent to point out that the respondent/claimant did not file any appeal or cross objections seeking for enhancement of compensation.

8.In the facts and circumstances, I hold that there is no basis for enhancing the compensation amount since the accident took place in the year 2000 and the trial court has passed the award taking into consideration the legal principles which were in vogue then. However, the award passed by the trial court cannot also be said to be on the higher side. Therefore, the appeal is liable to be dismissed. No costs. Consequently, the connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To
The Motor Accident Claims Tribunal
The Additional Sub-Judge,
Salem.

2. The section officer,
VR Section,
High court
Madras

(2 Copies)

+1cc to Mr.V.Rosi Naidu , Advocate SR.No.79321

+1cc to Mr. V.Rajesh, Advocate SR.No. 80037

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ASK(02/01/2019)

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