

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.31 of 2006

Tamil Selvan

... Appellant/Claimant

..Vs..

1.S.Thirumalai Rajan

2.The National Insurance Company Limited,
Divisional Office,
No.66, Perundurai Road,
Erode 638 011.

...Respondents/Respondents

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment in M.C.O.P.No.515 of 2003 dated 06.10.2004 on the file of the I Additional Sub Judge (Motor Accidents Claims Tribunal), Erode.

For Appellant : Mr.S.Kaithamalai Kumaran

For Respondents : Mr.N.B.Surekha for R2
R1 - Died

JUDGMENT

The appellant is the claimant in M.C.O.P.No.515 of 2003 dated 06.10.2004 on the file of the I Additional Sub Judge (Motor Accident Claims Tribunal) Erode.

2.The brief facts of the case of the claimants is as follows:

On 01.01.2003 at about 00.55 a.m., the appellant/claimant was travelling in a two wheeler TVS 50 Motorcycle as a pillion rider along Gobi-Sathy Main Road. At that time, a speedy Yamaha motorcycle bearing Registration No.TN-04-B5944 hit the two

wheeler in which the claimant was travelling, as a result of which, the claimant sustained injuries. According to the appellant/claimant, the rash and negligent driving of the driver of the first respondent was the cause of the accident. Since, the first respondent had insured his vehicle with the second respondent National Insurance Company, both the respondents are jointly and severally liable to pay the compensation to the claimant.

4. The learned I Additional Subordinate Judge, (Motor Accidents Claims Tribunal, Erode) after analyzing the entire evidence on record, awarded a sum of Rs.1,55,000/- together with interest at the rate of 9% per annum from the date of petition till the date of deposit. Aggrieved over the quantum of compensation awarded by the learned I Additional Subordinate Judge, (Motor Accidents Claims Tribunal, Erode). The appellant/claimant filed the present appeal seeking enhancement of the compensation. The award passed by the trial Court under various heads is extracted hereunder:

S.Nos.	Heads	Amount granted
1.	Loss of Income	5,000/-
2.	Transport expenses	5,000/-
3.	Medical expenses	45,000/-
4.	Pain and Sufferings	5,000/-
5.	Permanent Disability	50,000/-
6.	Loss of earning capacity	45,000/-
	Total	Rs.1,55,000/-

5. A perusal of the records shows that the claimant sustained in several injuries on both his legs and also lost his vision and sustained injuries all over his body. The claimant was aged 22 years, on the date of the accident and therefore, awarding compensation of Rs.1,55,000/- to the claimant is definitely very meagre and therefore, I am inclined to enhance the compensation amount.

6. Since the appellant/claimant was aged 22 years on the date of the accident, multiplier of 18 is adopted, as per the decision in Sarla Verma and other Vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. Further more, in the absence of proof of income, monthly income is fixed

at Rs.4,500/-. To this amount, future prospects at 40% is added, as per the decision of a Constitution Bench of the Honourable Supreme Court in National Insurance Company Vs. Pranay Sethi and others reported in 2017(2) TN MAC 601 and disability is calculated as $(4,500 + 40/100 \times 18 \times 12)$ Rs.13,60,800/-. The appellant/claimant has lost his vision of left eye and hence, a sum of Rs.50,000/- is awarded under the head 'pain and sufferings and mental agony'. Apart from this, a sum of Rs.10,000/- towards attendance charges and a sum of Rs.10,000/- for extra nourishment is awarded. Thus, the revised compensation amount under various heads is extracted hereunder.

S.Nos.	Heads	Amount granted
1.	Loss of Income	9,000/-
2.	Transport expenses	5,000/-
3.	Medical expenses	45,000/-
4.	Pain and Sufferings	50,000/-
5.	Permanent disability ($6300 \times 18 \times 12 = 13,60,800$)	13,60,800/-
6.	Loss of earning capacity	45,000/-
7.	Extra Nourishment	10,000/-
8.	Attendance charges	10,000/-
	Total	Rs.15,34,800/-

7. Thus, the appellant/claimant is entitled to a compensation of Rs.15,34,800/- together with interest at the rate of 7.5% per annum from the date of claim petition, till the date of deposit.

8. In the result,

(i) The appeal is allowed. No costs.

(ii) A sum of Rs.15,34,800/- is awarded to the appellant/claimant as compensation together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit.

(iii) The appellant/claimant is directed to pay necessary court fee for the enhanced compensation amount.

(iv) The National Insurance Company, namely, the second respondent is directed to deposit the enhanced compensation amount along with interest to the credit of M.C.O.P.No.515 of 2003 on the file of the I Additional Sub Judge, (Motor Vehicle Accident Claims Tribunal, Erode), within a period of four weeks

from the date of receipt of a copy of this order. On such deposit being made, the appellant/claimant is entitled to withdraw the entire amount.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dna

To

The I Additional Subordinate Judge,
(Motor Accident Claims Tribunal)
Erode.

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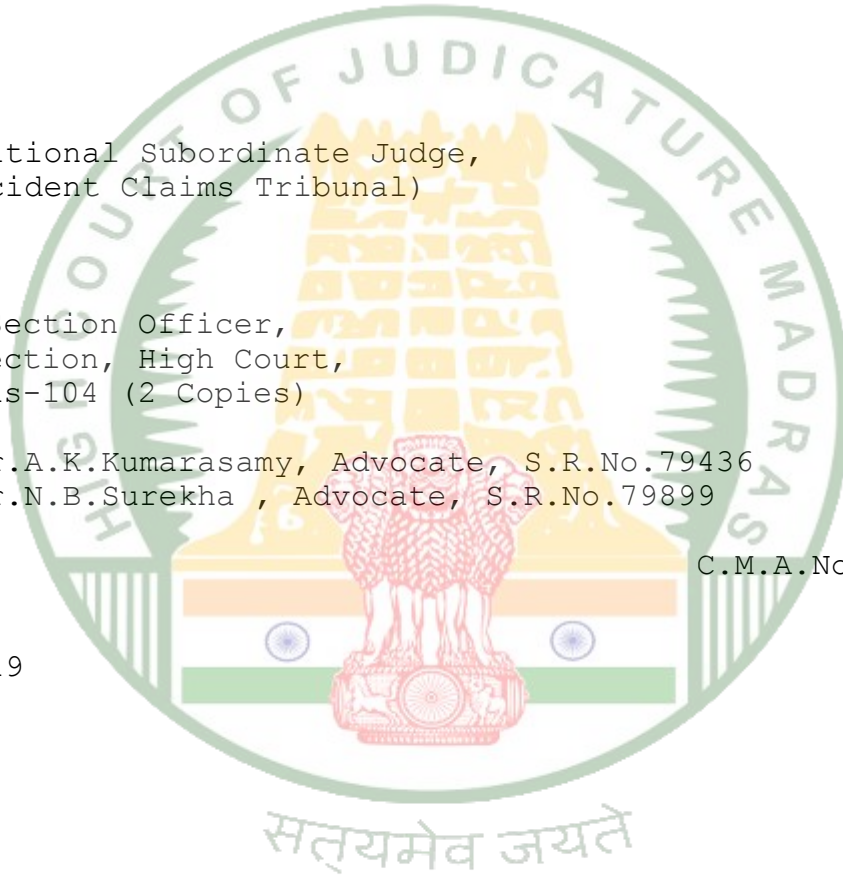
The Section Officer,
VR Section, High Court,
Madras-104 (2 Copies)

+1cc to Mr.A.K.Kumarasamy, Advocate, S.R.No.79436

+1cc to Mr.N.B.Surekha , Advocate, S.R.No.79899

C.M.A.No.31 of 2006

VGI (CO)
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