

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2018

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.3867 OF 2011

V.Sollin Selvam

... Appellant/petitioner

Vs.

1. J.Sivakumar

(1st respondent was set ex-parte in the trial court and hence, notice to first respondent is dispense with)

2. The New India Assurance Company Limited,
Divisional Office, Jerom Building,
2nd Floor, Fort Station Road,
Trichy.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the quantum of compensation awarded in M.C.O.P.No.244 of 2009 dated 20.06.2011 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Perambalur.

For Appellant : Ms.S.Yogalakshmi
for Mr.M.Guruprasad

For 2nd Respondent : Mr.J.Chandran

First Respondent : Exparte

J U D G M E N T

The appellant is the claimant in M.C.O.P.No.244 of 2009 on the file of the Motor Vehicle Accidents Claims Tribunal, Subordinate Court, Perambalur.

2. On 26.01.2009 at about 10.30 hours, the petitioner was riding his Hero Honda Motorcycle bearing registration No. TN 46 B 6114 on Perambalur- Ariyalur Road. When he was nearing Sadaikkapatti Village, a mini bus bearing registration No. TCB 7119 belonging to the first respondent driven at a high speed, hit the appellant/claimant, as a result of which, the

appellant/claimant was thrown out and sustained injuries. He was immediately rushed to the Siva Hospital at Perambalur and thereafter, took treatment in Kavery Medical Centre, Trichirappalli. According to the appellant/claimant, the accident was due to the rash and negligent act of the driver of the first respondent and that since the first respondent insured the bus with the 2nd respondent, the first and second respondent are jointly and severally liable to pay compensation to the appellant/claimant. Hence, the claimant had filed the claim petition seeking compensation of Rs.2,00,000/-.

3. In the trial court, the first respondent remained absent and was set exparte.

4. The second respondent filed a counter affidavit denying all the allegations of the petitioner.

5. After analysing the entire evidence on record, the Subordinate Judge, Motor Vehicle Accidents Claims Tribunal, Perambalur awarded a compensation of Rs.32,800/-. The break-up of the compensation awarded is furnished below.

S1 No	Heads	Amount in Rs.
1	Transportation charges	1,000
2	Compensation for injuries	12,000
3	Medical Expenses	19,760
	Total	32760
	Rounded off to	32,800

6. Aggrieved over the quantum of compensation awarded by the Subordinate Judge, Motor Vehicle Accidents Claims Tribunal, Perambalur in M.C.O.P.No.244 of 2009, the appellant/claimant has filed the present appeal under Section 173 of the Motor Vehicles Act for enhancement of the award amount.

7. Ms.S.Yogalakshmi, learned counsel appearing for the appellant would contend that the Tribunal has awarded a very meagre amount, especially, when the appellant/claimant sustained injuries on his earlobe. She would further contend that the injuries sustained on the upper portion of the body should be viewed very seriously. According to her, since the appellant/claimant is a reporter in Sun T.V and Dinakaran Newspaper, there is every likely hood of losing several job opportunities, since there is a dis-figuration of his earlobe.

8. Per contra, Mr.J.Chandran, standing counsel for the New India Assurance Company Limited (2nd respondent) would contend that the appellant/ claimant sustained only a simple injury and the award passed by the Motor Vehicle Accidents Claims Tribunal, Subordinate Court, Perambalur. is perfectly in order and does not warrant any interference by this court.

9. A perusal of the discharge summary (Ex.P3) issued by Kaveri Medical Centre, Trichirappalli shows that the appellant/claimant had sustained the following injuries.

- [i] Lacerated injury on the left ear
- [ii] Multiple abrasions at left hand and forearm
- [iii] Blunt injury at left side face
- [iv] Pain in all over the body.

The discharge summary does not mention anything about the alleged disfigurement of the earlobe, as claimed by the learned counsel for the appellant. The accident took place in the year 2009. The learned counsel for the appellant/ claimant also fairly conceded that there is no subsequent complications on account of the accident. 11 years had passed from the date of accident and so far, nothing is reported that the appellant has suffered any further loss on account of the accident.

10. The next contention of the learned counsel for the appellant is that the Tribunal has awarded only a sum of Rs.1,000/- towards transportation charges, even though initially the appellant took treatment in Siva Hospital at Perambalur thereafter, at Kaveri Medical Centre, Trichirappalli. Therefore, the appellant would have definitely incurred a sum of Rs.5,000/- towards transportation charges. Hence, a sum of Rs.4,000/- is added under the Head "Transportation charges". Further, considering the pain and sufferings undergone by the appellant, a sum of Rs.5,000/- is also awarded.

11. Accordingly, the amount of compensation awarded by the Tribunal is enhanced from Rs.32,800/- to Rs.41,800/-, which is detailed as under.

Sl No	Heads	Amount in Rs.
1	Transportation charges	5,000
2	Compensation for injuries	12,000
3	Medical Expenses	19,760
4	Pain and sufferings	5,000

Sl No	Heads	Amount in Rs.
	Total	41,760
	Rounded off to	41800

Hence, a total sum of Rs.41,800/- together with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit.

12. In the result,

(i) The appeal is allowed in part and a sum of Rs.,41,800/- (Rupees forty one thousand and eight hundred) is awarded to the appellant/ claimant as compensation together with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit. The 2nd respondent is directed to deposit the said amount along with interest to the credit of M.C.O.P.No.244 of 2009 on the file of the Motor Vehicle Accidents Claims Tribunal, Subordinate Court, Perambalur, within a period of two months from the date of receipt of a copy of this order.

(ii) On such deposit being made by the 2nd respondent, the petitioner is entitled to withdraw the entire amount together with interest forthwith, after following the procedure laid down by this court in its circular.

(iii) No order as to costs.

Sd/-
Assistant Registrar

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

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To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Perambalur.

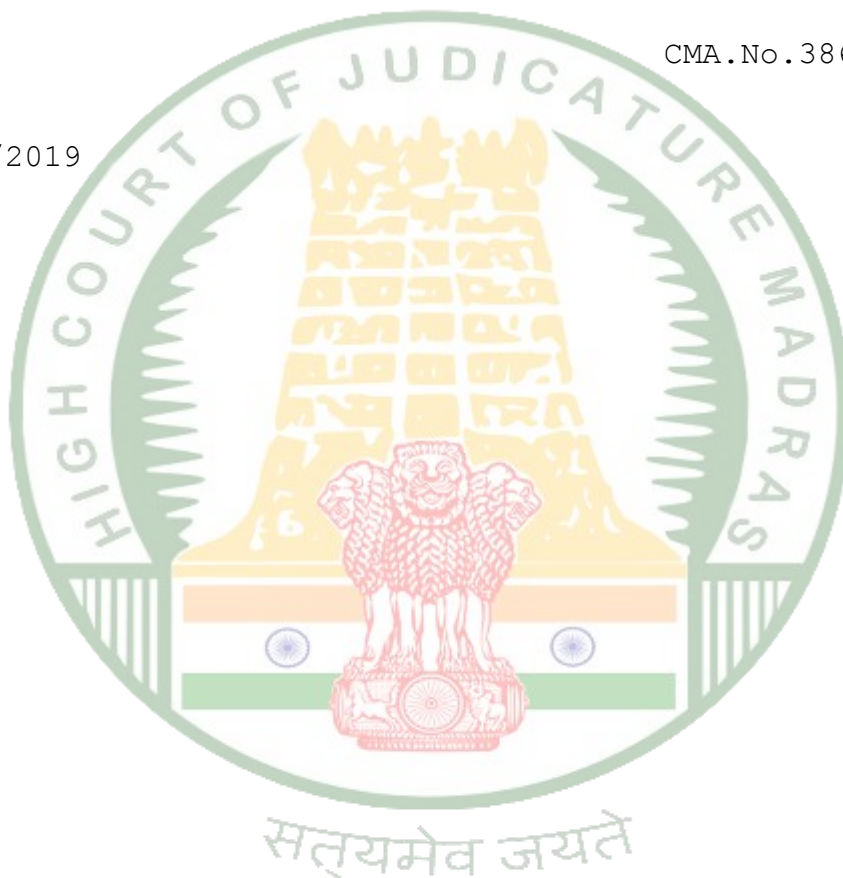
Copy to

The Section Officer,
VR Section, High Court,
Madr-104.

+lcc to Mr.M.Guruprasad, Advocate sr.77000
+lcc to Mr.J.Chandran, Advocate Sr.76911

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