

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1562 of 2004

and

C.M.P.No.8662 of 2004

1. Branch Manager
Oriental Insurance Co. Ltd.,
G.H.Road, Theni.1st Appellant /2nd respondent
 2. M/s.Murugan Enterprises
No.10-B, Vellimalai Nadar Compound
Main Road
Nelur Post,
Madurai TK.2nd Appellant/1st Respondent
- vs.
- K.Gopal Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 02.07.2002 made in M.C.O.P.No.79 of 2002 on the file of the Motor Accidents Claims Tribunal, Additional Special Judge, Krishnagiri.

For appellant : Mr. S.Manohar

JUDGMENT

Challenging the quantum of compensation awarded by the Tribunal, the insurer and insured of the vehicle involved in a motor vehicle accident, have preferred this appeal.

2.The case in brief is as follows:

On 04.04.2001 at about 6.30 a.m., the first respondent herein was travelling as a cleaner in a Tipper Lorry bearing Registration No.TN59-H-6339 belonging to the second appellant herein and insured with the first appellant herein. When the lorry was nearing Vellakkal quarry, in the Tirupattur to Melur Road, the driver of the vehicle drove it in a rash and negligent manner and dashed against a Tamarind tree. Due to the said impact, the first respondent sustained multiple injuries all over the body. Stating so, he filed a claim petition claiming a compensation of Rs.10,00,000/-. On consideration of the evidence and materials available on record, the Tribunal has awarded a total compensation of Rs.7,41,000/- with interest at 9%pa from the date of petition. Aggrieved over the same, both the owner and the insurer of the lorry, have come up with this appeal.

3.The learned counsel for the appellants have disputed only the quantum of compensation awarded by the Tribunal. According to him, the Tribunal has erred in awarding a huge sum of Rs.5,76,000/- under the head loss of earning. Further, the compensation awarded under the other heads is also excessive and exorbitant. Hence, the learned counsel sought to reduce the quantum of compensation awarded by the Tribunal.

4.Heard the learned counsel for the appellants and perused the materials available on record.

5.Though this appeal was admitted way back in the year 2004, the appellants have not taken proper steps to serve papers on the other side even at this length of time. However, considering the passage of time, this Court is inclined to proceed with this appeal on merits.

6.There is no dispute with regard to the findings of the Tribunal on negligence and liability of the appellant insurance company to pay compensation to the first respondent/claimant.

7.P.W.1/first respondent/claimant has deposed that he was working as a cleaner and his monthly salary was Rs.5,000/-; and in the accident, he sustained grievous injuries in his head, spinal cord, right hand and all over his body. P.W.2/doctor has narrated in detail about the nature of the injuries sustained by the claimant and he has assessed his permanent disability at 100%. Ex.P5 is the wound certificate. Ex.P7 is the disability certificate. The Tribunal has taken note of those evidence and materials, has awarded the total compensation at Rs.7,41,000/-, the break-up details of which, read as follows:

Sl. No.	Head	Amount awarded by the Tribunal
1	Pain, suffering and mental agony	Rs.1,00,000/-
2	Extra Nourishment	Rs. 5,000/-
3	Attender Charges	Rs. 10,000/-
4	Medical expenses (including future medical expenses)	Rs. 50,000/-
5	Loss of earning capacity and permanent disability (3000 x 12 x 16)	Rs.5,76,000/-
	Total	Rs.7,41,000/-

8.This Court is of the opinion that considering the gravity of the injuries and 100% disability sustained by the claimant/respondent, the period of treatment and also the nature of treatment taken by him, the compensation so awarded by the Tribunal under the above heads are just and reasonable and hence, the same need not be interfered. Further, there is no modification with regard to the rate of interest awarded by the Tribunal.

9.In fine, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10.The appellants are directed to deposit the amount of compensation with interest and costs, as awarded by the Claims Tribunal, 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 Tribunal is directed to transfer the amount lying in the deposit to the Savings Bank Account of the claimant/respondent herein, through RTGS, within a period of one week thereafter.

Sd/-

Assistant Registrar(co mdu)

//True Copy//

Sub Assistant Registrar

gbi/mra/rk

To

1. The Additional Special Judge
Motor Accidents Claims Tribunal,
Krishnagiri.
2. The Section Officer, V.R.Section,
Madras High Court,
Chennai 104.

+1cc to Mr.S.Manohar , Advocate SR.No. 50242

A.SK(21/09/2020) C.M.A.No.1562 of 2004

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