

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.06.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1861 of 2005

Ramalingam ... Appellant/Claimant

Vs

1.S.Karthi

2.P.Babu

3.National Insurance Co.Ltd.,
1272-1273, Mettur Road
Palaniappa Complex, Erode.

(R-1 driver of the vehicle remained
exparte before the Tribunal. Hence
given up).

.... Respondents/Respdnts

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 18.06.2004 made in MCOP No.624 of
2003 on the file of the Motor Accidents Claims Tribunal (I
Additional Sub Judge), Erode.

For Appellant : Mr.S.Kaithamalai Kumaran

For Respondents : No appearance for R2
Mr.Srinivasa Ramalingam for R3

JUDGMENT

This appeal is preferred by the appellant/claimant against
the award of a sum of Rs.1,04,000/- towards compensation due to
the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 06.08.2002, at about 11.45
hours, the appellant was travelling in the motorcycle bearing
Reg.No.TN-45-Z-0572 in the Karur-Erode Main Road from West to
East direction. One Kailasam was riding the motorcycle. When
they reached near Ganapathipalayam, Kallukuli, a car bearing
Reg.No.TMT-4161 came from the opposite direction in a rash and
negligent manner at high speed and dashed against the motorcycle

which the appellant was riding. Due to the said impact, both of them were thrown away and sustained grievous injuries. The appellant was taken to the hospital and given first aid and thereafter referred to Ganga Medical Centre and Hospitals Pvt.Ltd. at Coimbatore. The appellant filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,04,000/- with interest at the rate of 9% per annum from the date of petition.

3.Challenging the same, the appellant -claimant has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant /claimant has submitted that the Tribunal, having found that the accident had occurred only due to the rash and negligent driving of the driver of the car, erred in awarding a lesser compensation of Rs.1,04,000/- as against the claim of Rs.10,00,000/-. The learned counsel submitted that the medical bills itself amount to Rs.1,39,000/- and in this regard, for Doctor fees and medical expenses, as against the claim of Rs.2,00,000/-, the Tribunal has awarded only a sum of Rs.35,000/- and hence the same has to be enhanced. He also submitted that no amount has been awarded towards pain and suffering.

5.The learned counsel for the third respondent / Insurance Company submitted that the Tribunal has awarded the compensation which is just and reasonable and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.The details of compensation awarded by the Tribunal are as follows:

HEADS	AMOUNT (Rs.)
Loss of income	5,000/-
Transport expenses	1,500/-
Extra nourishment	2,500/-
Medical expenses	35,000/-
Loss of earning power	25,000/-

TOTAL...	69,000/-
	=====

8.Even though the total compensation awarded by the Tribunal works out to only Rs.69,000/-, it is stated by the Tribunal that the compensation awarded is Rs.1,04,000/-. But

considering the submission made by the learned counsel for the appellant and also the materials and evidence available on record, it would be appropriate to award a sum of Rs.1,49,000/- as against the medical bills, under the head "Medical expenses", as it is an actual expenditure incurred. Accordingly the amount awarded by the Tribunal towards medical expenses stands modified to Rs.1,49,000/-. Further, the Tribunal has not awarded any sum towards pain and suffering. It would be appropriate to award a sum of Rs.25,000/- towards this head. Hence, the claimant is entitled to a compensation of Rs.2,08,000/- with interest at 9% p.a. from the date of petition. The details of the modified compensation are as under:

HEADS	AMOUNT (Rs.)
Loss of income	5,000/-
Transport expenses	1,500/-
Extra nourishment	2,500/-
Medical expenses	1,49,000/-
Loss of earning power	25,000/-
Pain and suffering	25,000/-

TOTAL...	2,08,000/-
	=====

9.The third respondent Insurance Company is directed to deposit the modified compensation of Rs.2,08,000/- with interest at 9% p.a. from the date of petition, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

10.The Civil Miscellaneous Appeal is partly allowed. No costs.

सत्यमेव जयते

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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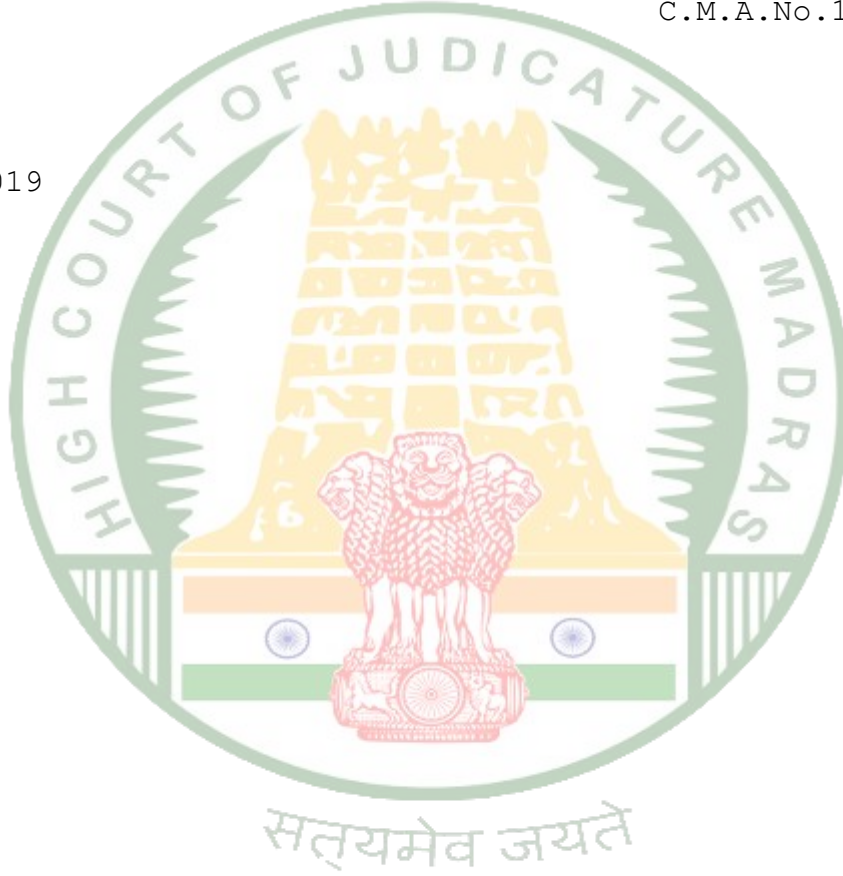
1.The Motor Accidents Claims Tribunal
I Additional Sub Judge, Erode.

2.The Section Officer,
VR Section, Madras High Court.

+1 cc to Mr.S.Kaithamalai Kumaran Advocate sr48480

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