

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2158 of 2006

Murugan

...Appellant/Petitioner/
Claimant

Vs.

1. M/s Ramamoorthi Lorry Service
No.40/42, Begampur,
Dindigul.

...1st Respondent/
1st Respondent/Owner

2. The Branch manager
United India Insurance Co., Ltd.,
Dindigul

...2nd Respondent/
2nd Respondent/Insurer

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Award dated 27.02.2006 passed in M.A.C.T.O.P.No.815 of 1997 on the file of the Motor Accident Claims Tribunal [Additional Sub Court] Tindivanam.

For Appellant : Mr.P.Mani
For R1 : No appearance
For R2 : Mr.D.Bhaskaran

J U D G M E N T

Being dissatisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has preferred this Civil Miscellaneous Appeal.

2.According to the appellant, on 07.04.1996, he met with an accident, while travelling in the 1st respondent's Lorry bearing registration No.TN 57/A 1177 insured with the second respondent insurance company, due to the rash and negligent driving on the part of the driver of the said lorry. Due to the said impact, he sustained grievous injuries, for which, he filed a claim petition claiming a compensation of Rs.1,00,000/-. On consideration of the materials and evidence, the Tribunal has awarded a total compensation of Rs.25,000/- with interest at 7.5%pa from the date of petition. Aggrieved over the same, the

appellant/claimant has come up with this appeal seeking enhancement of the compensation so awarded by the Tribunal.

3.The learned counsel for the appellant contended that considering the nature of the injuries sustained by the appellant/claimant, the quantum of compensation determined by the Tribunal is inadequate and the same has to be enhanced substantially.

4.The learned counsel for the second respondent insurance company submitted that the Tribunal, after evaluating the oral and documentary evidence adduced by the parties, has awarded a just compensation, which warrants no interference at the hands of this Court.

5.Heard the learned counsel for the appellant/claimant and the learned counsel for the second respondent insurance company and perused the materials available on record. Despite the service of notice and the name of the first respondent having been printed in the cause list, there is no representation on their behalf. However, considering the passage of time, this appeal is taken up for disposal on merits.

6.This is the claimant's appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, this Court is not inclined to go into the findings of the Tribunal on negligence and liability of the first respondent/owner of the vehicle to pay compensation.

7.The appellant/claimant/injured himself examined as P.W.1, according to whom, in the accident, he sustained grievous injuries on head and left shoulder, besides receiving fracture. However, no medical record was produced to substantiate the same. Further, the doctor, who treated him, was not examined. In the absence of any documentary proof with regard to permanent disability, loss of income etc., the Tribunal has rightly taken note of Ex.P3-accident register and Ex.P4-medical report given by the Government General Hospital, Chennai and has found that the appellant sustained grievous injuries. But, the Tribunal has awarded only a lesser compensation of Rs.25,000/- towards pain and suffering, which, in the opinion of this Court, needs to be enhanced, considering the nature of the injuries sustained by the appellant/claimant and also having regard to the fact that except pain and suffering, no amount was awarded under other heads viz., transportation charges, extra nourishment, injuries, loss of income, medical expenses etc., as contended by the learned counsel for the appellant. Accordingly, the compensation of Rs.25,000/- awarded by the Tribunal is hereby enhanced to Rs.50,000/-. However, it is made clear that the enhanced sum of Rs.25,000/- shall carry interest at 7.5%p.a. only from the date

of filing of this appeal.

8. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. The first respondent/owner of the vehicle is directed to deposit the enhanced sum of Rs.50,000/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal shall transfer the amount lying in the deposit to the bank account of the appellant/claimant through RTGS within a period of one week thereafter.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ssd/rk
To

1. The Motor Accident Claims Tribunal
[Additional Sub Court] Tindivanam.

2. The Section Officer, V.R. Section,
Madras High Court, Chennai 104

copy to
M/s. Ramamoorthy Lorry Service
No.40/42 Begampur Dindigul

+1 cc to Mr. P. Mani Advocate sr61987
+1 cc to Mr. D. Bhaskaran Advocate sr61721

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mr(co)
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