

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2514 of 2007

Dhanasekaran

... Appellant

Vs

1.S.Paramanantha Mudaliar

2.The Branch Manager,
Oriental Insurance Co.Ltd.,
(Namakkal),
Chery Road, Salem-1.

... Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 27.10.2006 made in MCOP No.165 of 1998 on the file of the Motor Accidents Claims Tribunal / Additional District Court / Fast Track Court No.1, Salem.

For Appellant : Mr.N.Manokaran

For Respondents : Mr.J.Chandran for R2

JUDGMENT

The case in brief, is as follows:

On 30.11.1997 at about 1.30 p.m., the appellant was walking in the mud portion of the Thoppur - Mecheri Branch Road at Mecheri. At that time, the Ambassador Car bearing Reg.No.TN-67-Z-4547 belonging to the first respondent and insured with the second respondent Insurance Company, came in a rash and negligent manner and dashed against the appellant. Due to the said impact, the appellant sustained grievous injuries. The appellant filed a claim petition before the Tribunal claiming a sum of Rs.5,00,000/- as total compensation. Considering the materials and evidence available on record, the Tribunal awarded a sum of Rs.1,50,000/- with interest at the rate of 7.5% per annum from the date of petition, as total compensation.

2.Challenging the same, the appellant -claimant has filed the present Civil Miscellaneous Appeal for enhancement of compensation.

3.The learned counsel for the appellant /claimant has submitted that the Tribunal has not awarded compensation towards pecuniary and non-pecuniary damages and further, no amount has been awarded towards future medical expenses. The amounts awarded towards other heads are also very meagre. Stating so, the learned counsel prayed for enhancement of compensation. The learned counsel has relied upon the decision of the Hon'ble Supreme Court in Sandeep Khanuja v. Atul Dande, reported in (2017) 3 SCC 351, to state that in injury cases, description of nature of injuries and permanent disablement are relevant factors and it has to be seen as to what would be the impact of such injuries / disablement on the earning capacity of the injured, to decide the amount of compensation towards these heads.

4.The learned counsel for the second respondent Insurance Company has submitted that the Tribunal has correctly considered the materials and evidence available on record and has correctly awarded the compensation, which is just, fair and reasonable and hence the judgment of the Tribunal does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant / claimant and the learned counsel for the second respondent and perused the materials available on record carefully and meticulously.

6.The Tribunal has awarded a sum of Rs.25,000/- towards medical expenses, Rs.10,000/- towards transportation expenses and extra nourishment, Rs.25,000/- towards pain and suffering and Rs.90,000/- towards 35% permanent disability. It is seen that due to the injuries suffered on account of the accident the injured is unable to walk and stand as before. Further, the injuries are grievous in nature. In the circumstances, certainly the appellant would have incurred medical expenditure thereafter. Hence, it would be appropriate to award a sum of Rs.75,000/- towards future medical expenses. Furthermore, this Court of the view that the amount awarded by the Tribunal towards pain and suffering compared to the injuries suffered, is very low and it would be appropriate to enhance the same to Rs.1,00,000/-. The amounts awarded by the Tribunal towards other heads are confirmed. The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Medical expenses	25,000/-
Transportation expenses and extra nourishment	10,000/-
Permanent disability	90,000/-
Future medical expenses	75,000/-
Pain and suffering	1,00,000/-

TOTAL...	3,00,000/-
	=====

Thus, the appellant / claimant is entitled to the modified compensation of Rs.3,00,000/- with interest at the rate of 7.5% per annum. But it is seen that even though the claim petition was filed in the year 1998 for the accident which occurred in the year 1997, the award was passed by the Tribunal in the year 2006, i.e, after a period of 8 years. Considering the same and also the facts and circumstances of the case, it is made clear that the interest rate shall be calculated only from the date of filing of this appeal for the entire amount of compensation.

7.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

8.The second respondent Insurance Company is directed to deposit the modified compensation as ordered above, 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 shall withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal / Additional District Court /

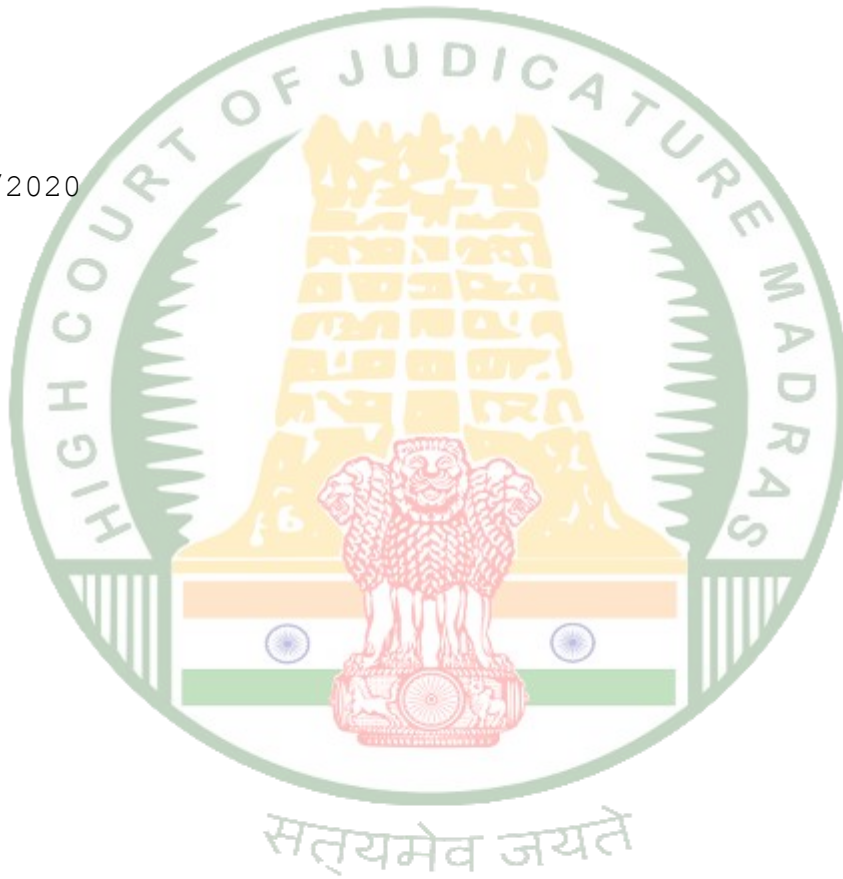
Fast Track Court No.1, Salem.

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

+1cc to Mr.N.Manoharan, Advocate Sr.72944
+1cc to Mr.J.Chandran, Advocate Sr.74128

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srg 05/06/2020



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