

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.267 of 2007

Nagappan

...Appellant/Claimant

vs.

1.P.Gurusamy

2.The National Insurance Co. Ltd.,

Sooramangalam Branch,

266/N Junction Main Road,

Salem - 4.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 03.03.2004 passed in MCOP.No.372 of 1999 on the file of the Motor Accident Claims Tribunal / Additional District Judge, Fast Track Court No.1, Salem.

For Appellant : Mr.S.Kalyanaraman

For Respondents : Mr.S.Vadivel for R2
No appearance for R1

J U D G M E N T

The appellant is the claimant in MCOP.No.372 of 1999 on the file of the Motor Accident Claims Tribunal / Additional District Judge, Fast Track Court No.1, Salem. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.1,50,000/- for the injuries sustained by him in a road accident on 20.05.1998.

2. The case of the appellant / claimant in nutshell is as follows:

On 20.05.1998, the claimant was riding his bicycle along Senkaradu - Thekkampatti road and at about 03.00 pm, a speeding lorry bearing Registration No. TNS 2443, belonging to the first respondent and insured with the second respondent hit him, as a result of which, he fell down and sustained injuries all over his body. According to the claimant, the rash and negligent driving of the driver of the lorry bearing Registration No. TNS 2443, belonging to the first respondent was the cause of the accident and that since the said vehicle was insured with the second respondent, the owner and the insurer are jointly and severally liable to pay compensation.

3. The owner of the lorry remained absent before the Tribunal and therefore, he was set exparte. The National Insurance Company contested the claim petition on all the grounds available to the insured. The learned Additional District Judge, Fast Track Court No.1 / Motor Accident Claims Tribunal, Salem after analysing the evidence on record, awarded a compensation of Rs.85,000/- together with interest at the rate of 9% per annum to the claimant. Not being satisfied with the award passed by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard Mr.S.Kalyanaraman, learned counsel appearing for the appellant and Mr.S.Vadivel, learned counsel appearing for the second respondent. No appearance on behalf of the first respondent.

5. The claimant had sustained a fracture of bones on his left thigh and a steel plate was fixed. Dr.S.Elangovan (PW2) had assessed the partial permanent disability as 25%. In the facts and circumstances of the present case, awarding a sum of Rs.2,000/- per percentage of disability, in the opinion of this Court, would meet the ends of justice and therefore a sum of Rs.50,000/- is awarded towards "partial permanent disability". A perusal of the records shows that the claimant was an electrician, earning a sum of Rs.2,500/- per month. The claimant would not have been in a position to attend to his routine work atleast for three months and therefore, a sum of Rs.7,500/- is awarded towards "loss of income".

6. The award passed by this Court under various heads is extracted hereunder:

S.No	Head	Amount granted by this Court
1.	Partial permanent disability	Rs.50,000/-
2.	Pain and sufferings	Rs.10,000/-
3.	Medical bills	Rs.19,645/-
4.	Transportation	Rs.2,000/-
5.	Extra nourishment	Rs.5,000/-
6.	Attender's charges	Rs.2,000/-
7.	Damage to clothes	Rs.500/-
8.	Loss of income	Rs.7,500/- (Rs.2,500/- x 3 months)
9.	Loss of amenities	Rs.5,000/-
Total		Rs.1,01,645/-

7. Thus, the compensation awarded by the Tribunal is enhanced from Rs.85,000/- to Rs.1,01,645/- which would carry interest at the rate of 7.5% per annum.

8. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed.
No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.85,000/- to Rs.1,01,645/-.

(iii) The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

(iv) The second respondent is directed to deposit the enhanced compensation amount i.e., Rs.1,01,645/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.372 of 1999 on the file of the Motor Accident Claims Tribunal / Additional District Judge, Fast Track Court No.1, Salem within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following the due process of law.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

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To

The Additional District Judge,
The Motor Accidents Claims Tribunal,
Fast Track Court No.1, Salem.

Copy To :
The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.S.Kalyanaraman, Advocate SR.No.89386

+1cc to Mr.S.Vadivel, Advocate SR.No.89402

CMA.No.267 of 2007

EV (CO)

<https://hcservices.courts.gov.in/hcservices/>
GMR (12/06/2020)