

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.757 of 2006

C.Marutha Muthu

.. Appellant/Petitioner

Vs.

1.S.Tamilselvan

2.The New India Ass. Co. Ltd.,

Motor III party Claims Office,

No.45, Moore Street, Chennai-1. .. Respondents/Respondents

(R1 set exparte in Trial Court)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the award and decree dated 09.02.2005 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court-IV, Poonamallee in MCOP.No.292 of 2003.

For Appellant : Mr.J.Mahalingam

For R2 : Mr.S.Manohar

J U D G M E N T

The Claims Tribunal has awarded a sum of Rs.1,11,000/- to the claimant/appellant herein as against the claim of Rs.3,50,000/- for the injuries suffered by him in a motor vehicle accident, aggrieved over which, this appeal is preferred by the claimant/appellant.

2.On 12.09.2002 at about 9.00p.m., the appellant was proceeding on the Poonamallee High Road by walk and at that time, the motorcycle bearing Reg.No.TN.07-Z-1647 belonging to the first respondent and insured with the second respondent Insurance Company, which was driven by its rider in a rash and negligent manner, hit against the appellant and due to the said accident, the claimant/appellant suffered grievous injuries. Stating so, the claimant has filed a claim petition before the Tribunal. The Tribunal, based on the evidence and documents adduced by both sides, has awarded a compensation of Rs.1,11,000/- under the following heads:-

S.No.	Heads	Rs.
1.	Transportation Expenses	5,000/-
2.	Extra Nourishment	5,000/-
3.	Loss of earning during the treatment period	18,000/-
4.	Permanent disability 45%	45,000/-
5.	Pain and suffering	20,000/-
5.	Loss of Expectation of Life (Shortening of normal longevity)	18,000/-
	Total	1,11,000/-

3.The learned counsel for the claimant/ appellant submitted that the award passed by the Tribunal is meagre, when compared with the injuries suffered by the claimant and hence the same requires substantial enhancement. He further submitted that after the accident the life of the claimant / appellant had become dark and hence, the compensation awarded by the Tribunal has to be enhanced substantiatially.

4.Per contra, the learned counsel appearing on behalf of the second respondent/Insurance company submitted that the Tribunal, based on the records available before it, has awarded the compensation, which is nothing but just and hence no interference is required.

5.This Court has considered the said submissions made by the learned counsel for both sides and perused the materials available on record.

6.Since no evidence was adduced on the side of the Insurance Company to establish the factum of accident, taking note of the deposition of the claimant, the Tribunal has fixed the negligence on the part of the rider of the two wheeler belonging to the first respondent and insured with the second respondent/Insurance Company. This Court finds absolutely no reason whatsoever to interfere with such findings on negligence.

7.As far as the quantum of compensation awarded by the Tribunal is concerned, the Tribunal has taken note of the evidence of P.W.2-Doctor, who assessed the disability of the claimant at 45%, and has awarded a sum of Rs.45,000/- towards permanent disablement and Rs.20,000/- towards pain and suffering. In the absence of any documentary proof with regard to the monthly income of the injured, the Tribunal has fixed a sum of Rs.3,000/- as monthly income of the injured that would have been earned by way of running a provisional store and has assessed the loss of income during the treatment period of 6

months at Rs.18,000/-. In fact the Tribunal has awarded a further sum of Rs.18,000/- for the said period. Towards transportation expenses and extra nourishment a sum of Rs. 5,000/- each was awarded. Thus, the Tribunal has arrived at the total compensation at Rs.1,11,000/-. This Court is of the view that the Tribunal has arrived at the said quantum based on the conventional methodologies being adopted by it time and again. Further, it is pertinent to note that the Tribunal has taken note of the heads under which the compensation has to be awarded and has rightly assessed the compensation under each heads, commensurate with the nature of injuries, period of treatment and other aspects. Hence, the compensation awarded by the Tribunal at Rs.1,11,000/- with interest at the rate of 7.5% per annum from the date of petition is confirmed.

8. In the result the Civil Miscellaneous Appeal filed by the appellant / claimant stands dismissed, by upholding the award of the Tribunal. No costs.

9. The second respondent / Insurance Company shall deposit the entire compensation amount, along 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 appellant / claimant is permitted to withdraw the same on making proper application before the Tribunal.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

srk/tta

To

1. The Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court-IV,
Poonamallee.

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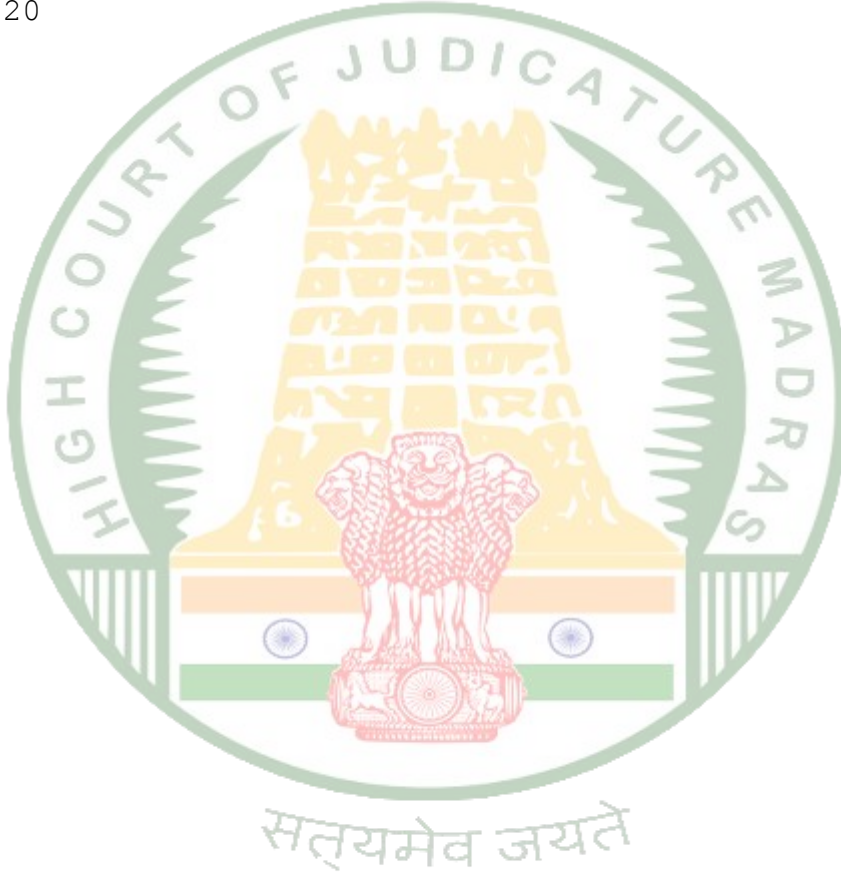
The Section Officer,
VR Section, High Court,
Madras -104.

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