

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.859 of 2005

S. Badrinarayanan

... Appellant/Petitioner

Versus

1.V. Vijaya Kumar

2.The National Insurance Company Ltd.,
1152 & 1153 Trichy Road,
Ramanathapuram,
Coimbatore 641 045.

... Respondents/Respondents

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, against the award and Decree dated 31.12.2003 in M.C.O.P.No.1503 of 2000 as amended as per the Order in I.A.No.1481 of 2004 dated 05.11.2004 on the file of the Motor Accidents Claims Tribunal, Salem Additional District Judge, I Fast Track Court, Salem.

For Appellant :Mr.S. Kalyanaraman

For Respondent - 2 :Mr.N.B.Surekha

J U D G M E N T

This appeal has been filed against the award and Decree dated 31.12.2003 made in M.C.O.P.No.1503 of 2000 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No. 1, Salem.

2. On 08.04.2000 at about 9.00 when the appellant herein was riding his motor cycle at Cuddalore Main Road, the first respondent car bearing Registration No. DCC-69 came in the opposite direction at a very high speed and dashed the vehicle of the appellant. In the result the appellant herein sustained grievous injuries, hence he filed a claim petition in M.C.O.P.No. 1503 of 2000 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.

1, Salem, seeking compensation for a sum of Rs.7,75,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.3,95,000/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as inadequate and disproportionate, the appellant has filed this appeal.

4. The learned counsel for the appellant stated that the appellant was severely injured therefore, the medical expenses fixed on the appellant is not a reasonable one and it needs to be enhanced.

5. The learned counsel for the second respondent/Insurance Company submitted that the award passed by the Tribunal is a very reasonable one and prays for dismissal of this petition.

6. Heard both sides and perused the materials available on record.

5. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has not awarded a just and fair compensation, which need interference by this Court in this appeal and the quantum of compensation assessed by the Tribunal, needs to be modified.

6. Thus, considering the facts and circumstances of the case, this Court finds that the amount awarded by the Tribunal needs to be enhanced. The award amount is enhanced to Rs.5,08,513/- from 3,95,000/- under the following heads.

S.No	Particulars	Amount granted by the Tribunal	Amount awarded by this Court
1	Toward disability Partial	Rs.75,000/-	Rs.75,000/-
2	Pain and sufferings	Rs.20,000/-	Rs.30,000/-
3	Loss of future Income	Rs.40,000/-	Rs.40,000/-
4	Loss of income during the period of treatment	-Nil-	Rs.10,000/-
5	Nourishment	-Nil-	Rs.5,000/-
6	Additional Medical expenses	-Nil-	Rs.83,513/-
4	Loss of Medical Expenses	Rs.2,50,000/-	Rs.2,50,000/-
5.	Transport Expenses	Rs.10,000/-	Rs.5,000/-
6.	Loss of Amenities	-Nil-	Rs.10,000/-

S.N o	Particulars	Amount granted by the Tribunal	Amount awarded by this Court
	Total	Rs.3,95,000/-	Rs.5,08,513/-

7. In the result,

(a) this appeal is partly allowed and the Judgment and Decree dated 31.12.2003, made in M.C.O.P.No.1503 of 2000, on the file of Motor Accidents Claims Tribunal, Fast Track Court No.1, Salem is hereby set aside.

(b) the second respondent/Insurance company is directed to deposit the enhanced amount, less the amount, if any, already deposited, with interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit being made, the appellant is directed to file proper application before the Tribunal and withdraw the amount.

(d) There will be no order as to costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

smn

To.

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

+1cc to Mr. S.Kalayanaraman, Advocate, S.R.No. 20224

+1cc to Mr. N.B.Surekha, Advocate, S.R.No. 20230

C.M.A. No.859 of 2005

MB (CO)

GN(27/04/2019)