

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1376 of 2009

A.Saiman

... Appellant/Claimant

Vs.

1.K.Vijayendiran

2.V.Kaliaperumal

3.The National Insurance Co.Ltd.,
Rep. By its Branch Manager,
No.62/A, Jawaharlal Nehru Street,
Pondicherry. ... Respondents/Respondents 1 to 3

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the award dated 22.01.2009 in M.A.C.T.O.P.No.163 of 2006 on the file of the Motor Accident Claims Tribunal -cum-Additional District Judge at Karaikal, Puducherry in as much as the quantum of the award and enhance the amount of compensation in M.A.C.T.O.P.No.163 of 2006 on the file of the Motor Accident Claims Tribunal-cum-Additional District Judge at Karaikal, Puducherry.

For Appellant : Mr.Saikrishnan
for M/s.Sai Bharath & Ilan

For R3 : Mrs.N.B.Surekha

For R1 & R2 : No appearance

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J U D G M E N T

This appeal is preferred by the appellant / claimant as against the award passed by the Tribunal in M.C.O.P.No.163 of 2006 on 22.01.2009.

2. The case of the claimant is that on 30.05.2006 at about

9.00 hours, when the claimant was travelling as pillion rider in the TVS Motor Cycle bearing Reg.No.PY-01/N 3729 in the Karaikalmedu Main Road, a Minidor Tempo bearing Reg.No.PY-02-D-2355 driven by the 1st respondent herein hit the motorcycle and as a consequence thereof, the claimant fell on the road and sustained severe multiple injuries on his right knee, left leg and right hand and all over the body. The appellant/claimant has filed a claim petition before the Tribunal claiming a sum of Rs.6,00,000/- as compensation.

3. The Tribunal has framed the following issues for consideration:

i. Whether the accident was due to the rash and negligent driving of the driver of the Minidor goods pick-up van bearing Reg. No.PY 02 D 2355?

ii.If so, what is the quantum of compensation the claimant is entitled to?

4. While answering those issues, the Tribunal has fastened the liability on the 3rd respondent herein and arrived at the quantum of Rs.25,000/- in a lump sum without any break-up details, aggrieved over which, the claimant/appellant is before this Court.

5. Heard both sides.

6. The learned counsel for the appellant/ claimant submitted that the Tribunal ought to have considered the future medical expenses of the appellant, as he was taking treatment and was bedridden with the rods and Iron plates; the Tribunal has not appreciated Ex.P.16 and the evidence of Doctor in a proper perspective. He further submitted that the quantum arrived by the Tribunal is too low, which needs significant enhancement.

7. Per Contra, the learned counsel for the 3rd respondent/Insurance Company submitted that the Tribunal has analysed each and every aspect into the consideration and has awarded the compensation which is nothing but just, which does not require any interference by this Court. He further submitted that the age, avocation and the other details of the claimant have been disputed before the Tribunal and on the basis of the evidence and document account, the compensation has been arrived at by Tribunal and hence, interference of the same is uncalled for.

8. Since this appeal is preferred by the claimant/appellant, this Court would like to deal only with the quantum of compensation arrived by the Tribunal, eschewing the negligence aspect.

9. As far as the quantum of compensation is concerned, though the Tribunal has discussed in detail about the manner of accident, based on evidence account, the Tribunal has ultimately awarded only a sum of Rs.25,000/- in lump sum as compensation payable by the respondents herein. This court is of the view that the compensation arrived at by the Tribunal is too low considering the nature of injuries, period of treatment and probabilities of the case.

10. Before the Tribunal, the claimant/ appellant has been examined as PW1. The doctor has been examined to speak about the disability suffered by the appellant/claimant who has given Ex.P16 disability certificate at 50%. The disablement of 50% suffered for a self-employed person speaks volume. Ex.P7 accident register and P8 accident inspection report have not been disputed by the respondents. Further the medical expenses as per Exs.P9 to P15 of the appellant / claimant also corroborate with the period of accident. Considering the materials and evidence available on record, this Court is of the opinion that the compensation awarded by the Tribunal is too low, which has to be restructured.

11. Thus this Court is of the opinion that the following restructured total compensation, item-wise, would meet the ends of justice:-

Head	Amount/Rs.
Partial Temporary Disability 50%	30,000.00
Medical Expenses	35,000.00
Pain and Sufferings	15,000.00
Transportation	10,000.00
Loss of earnings in the period of treatment	36,000.00
Total	1,26,000.00

12. In the result, the Civil Miscellaneous Appeal filed by the appellant/claimant is partly allowed, by enhancing the total amount of compensation from Rs.25,000/- to Rs.1,26,000/-, which is payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The third respondent/insurance company is directed to deposit the award amount along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit 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 judgment. On

such deposit, the Tribunal shall transfer the said amount to the Savings Bank Account of the appellant / claimant within a period of one week thereafter. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

srk / rri /rk

To

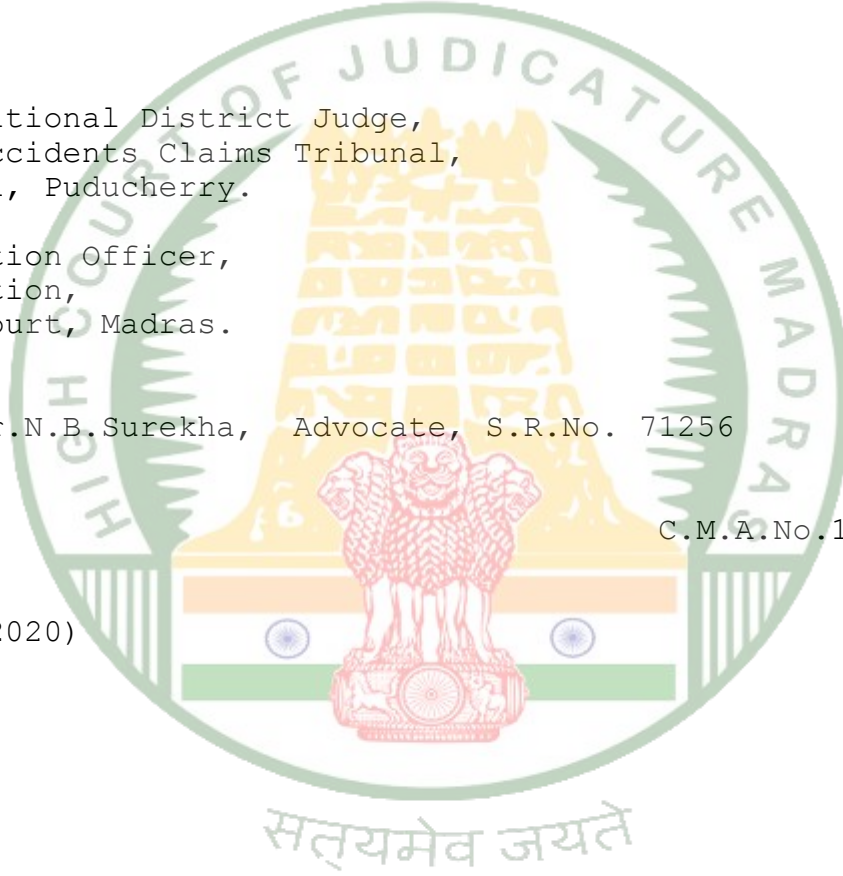
1.The Additional District Judge,
Motor Accidents Claims Tribunal,
Karaikal, Puducherry.

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

+1cc to Mr.N.B.Surekha, Advocate, S.R.No. 71256

C.M.A.No.1376 of 2009

CP(CO)
GN(21/10/2020)



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