

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1446 of 2009

A.K. Kanniyappan

... Appellant/Ist Respondent

Versus

1.Sampath

...Ist Respondent/Petitioner

2.The Divisional Manager,

The New India Assurance Company Ltd.,

Officers Line,

Vellore - 1.

... Respondent /2nd Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and award dated 03.10.2005 passed in M.A.C.T.O.P.No. 184 of 2001 on the file of the Motor Accident Claims Tribunal (Sub Judge) Ranipet, Vellore District.

For Appellant : Mr. P.Mani

For Respondents 1 : Mr.V.Murali

For Respondent 2 :Mr. M. Krishnamoorthy

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant to modify the amount awarded in M.A.C.T.O.P.No. 184 of 2001 on the file of the Motor Accident Claims Tribunal (Sub Judge) Ranipet, Vellore District

2.The facts of the case are as follows:

On 19.09.2000 at about 3.00 p.m, when the first respondent herein was proceeding from Rathanagiri to Mangkuppen village, a motor cycle bearing Registration No: T.N.23-X-6466 came in the opposite direction and dashed against the appellant. In the result first respondent sustained multiple injuries and was

admitted at Government Hospital, Vellore. He had commuted fracture in the left leg, he being mason was unable to carry his work as he had commuted fracture of the left leg on account of the accident. The Accident occurred due to the negligent riding of the motor cyclist.

3. Due to the injuries sustained by the claimant, he filed M.A.C.T.O.P.No. 184 of 2001 on the file of the Motor Accident Claims Tribunal, Sub Judge, Ranipet, Vellore District, seeking compensation for a sum of Rs.3,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.49,500/- payable with interest at the rate of 7.5% per annum.

4. Aggrieved over the same, the appellant/owner of the vehicle has come forward with the present appeal.

5. The learned counsel for the appellant contend that the compensation amount awarded by the Tribunal against them is incorrect. Hence, prays to allow this appeal.

6. Per Contra, the learned counsel for the respondent / Insurance Company contend that, they have filed a counter statement alleging that at the time of accident, the driver of the two wheeler does not possess valid driving license and also denied the manner of the accident as projected by the claimant and further contend that the tribunal has awarded huge amount under different heads which is not proper. Hence, the respondent/Insurance company prays to dismiss this appeal.

7. From the perusal of the materials available on record, it is seen that the Tribunal, had examined 3 witnesses and marked 5 exhibits on the side of the appellant and 2 witnesses and 6 exhibits were marked on the side of the respondents.

8. The Tribunal, on the basis of oral evidence of PW-1, assessed that, at the time of accident he was aged about 40 years and he was working as a mason, and earning Rs.70/-per day. Due to the accident he was not able to continue his work for a period of 2 months. Hence, Rs. 3,500 is awarded as under the head loss of income.

8.1 In the cross examination PW-2, stated that Pw-1 suffered injuries hence the Tribunal awarded Rs.10,000 under the head pain and suffering.

8.2. In the cross examination of Pw-3/Doctor it is seen that disability was assessed at 50%. Hence, the Tribunal awarded Rs.25,000/-as compensation for the head Partial disability.

8.3. The Tribunal after verifying all the exhibits awarded Rs. 500/- for Transport and Rs. 500/- for Nourishment and for loss of estate Rs.10,000 was awarded.

9. Thus, considering the facts and circumstances of the case, the Tribunal awarded Rs.49,500/- as compensation, under the following heads.

S.No.	Particulars	Amount awarded by the Tribunal
1	Loss of Income	Rs.3,500/-
2	Pain and Sufferings	Rs.10,000/-
3	Partial Disability	Rs. 25,000/-
4	Transport	Rs.500/-
5	Nourishment	Rs.500/-
6	Damage to clothes and articles	Rs.10,000/-
	Total	Rs.49,500/-

10. After verifying all the relevant documents it is seen that the driver does not possess valid driving license at the time of the accident. Therefore, this Court directs the insurance company to pay the award amount and recover it from the owner of the vehicle/first respondent herein.

11. In the result, the Civil Miscellaneous Appeal is Partly

Allowed:

(i) The award passed on 03.10.2005 in M.A.C.T.O.P.No. 184 of 2001 on the file of the Motor Accident Claims Tribunal (Sub Judge) Ranipet, Vellore District, with regard to quantum of the award amount is hereby confirmed but, the Insurance company is directed to deposit the award amount, less the amount, if any, already deposited, along with accrued interest within a period of eight weeks from the date of receipt of a copy of this order and recover the same from the owner of the vehicle/appellant herein.

(ii) The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

(iii) On such deposit, the claimant is permitted to withdraw the amount, by filing proper application before the Tribunal.

(iv) There will be no order as to costs in this appeal.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

smn

To

1. The Motor Accidents Claims Tribunal,
Sub Judge, Ranipet
Vellore District.
2. The Section Officer,
V.R. Section, High Court,
Madras - 104.

+1 cc to M/s.P.Mani Advocate sr26950
+1 cc to M/s.M.Krishnamoorthy Advocate sr27071

CMA No.1446 of 2009

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