

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA
CMA.No.2556 of 2010

V.Muthukrishnan

...Appellant/Claimant
vs.

1.Arihant Transport Agencies,
Rams Building,
F.No.A/9, 2nd Floor,
No.21, Raja Annamalai Road,
Chennai - 84.

2.United India Insurance Co. Ltd.,
Divisional Office-XI,
No.14, Whites road,
Sudarsan Building, 2nd Floor,
Chennai - 14.

... Respondents/2nd respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 20.07.2009 passed in MCOP.No.123 of 2006 on the file of the Motor Accident Claims Tribunal / Principal Subordinate Court, Krishnagiri.

For Appellant : Mr.P.Mani
For Respondents : Mr.D.Bhaskaran for R2
No appearance for R1

सत्यमेव जयते
J U D G M E N T

The appellant is the claimant in MCOP.No.123 of 2006 on the file of the Motor Accident Claims Tribunal / Principal Subordinate Court, Krishnagiri. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.3,00,000/- for the injuries sustained by him in a road accident on 08.12.2005.

2. The case of the claimant is that on 08.12.2005, he was travelling as a passenger in a bus bearing Registration No. TN 24 1330 on Uthangarai National Highways Road, near Kamalapuram Junction and at about 05.30 pm, a speeding lorry bearing Registration No. TN 01 U 0614 hit the bus, as a result of which, the two vehicles collided and he sustained grievous injuries all over his body.

3. According to the claimant, the rash and negligent driving of the driver of the lorry belonging to the first respondent was the cause of the accident and that since the said lorry was insured with United India Insurance Company, the owner and the insurer of the lorry are jointly and severally liable to pay compensation.

4. The owner of the lorry remained absent before the Tribunal and therefore he was set exparte. The second respondent / United India Insurance Company contested the claim petition on all the grounds available to the insured. The learned Principal Subordinate Judge / Motor Accident Claims Tribunal, Krishnagiri after analysing the evidence on record, awarded a compensation of Rs.53,393/- together with interest at the rate of 7.5% per annum to the claimant. Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr.P.Mani, learned counsel appearing for the appellant / claimant and Mr.D.Bhaskaran, learned counsel appearing for the second respondent. No appearance on behalf of the first respondent.

6. A perusal of the records shows that the claimant had sustained a fracture of his right arm and bones were also malunited. Dr.Ashok Kumar (PW11) has assessed the partial permanent disability suffered by the claimant as 30% and the Tribunal has awarded a sum of Rs.1,000/- per percentage of disability. Considering the nature of injuries and the year of the accident, this Court is of the opinion that a sum of Rs.2,000/- per percentage of disability can be awarded to the claimant. The Tribunal did not award any amount towards "loss of income". In the claim petition, it is contended that the claimant was a watchman, earning a sum of Rs.4,000/- per month. Since the accident took place in the year 2005, a sum of Rs.3,000/- is fixed as notional monthly income of the claimant. As the claimant had sustained a fracture in his right arm, he would not have been in a position to attend to his routine work atleast for two months and therefore a sum of Rs.6,000/- (Rs.3,000/- x 2 months) is awarded towards "loss of income". 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.60,000/-
2.	Pain and sufferings	Rs.10,000/-
3.	Transportation	Rs.5,000/-
4.	Extra nourishment	Rs.5,000/-

S.No .	Head	Amount granted by this Court
5.	Attender's charges	Rs.2,000/-
6.	Medical expenses	Rs.12,393/-
7.	Loss of income	Rs.6,000/-
Total		Rs.1,00,393/-

7. 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.53,393/- to Rs.1,00,393/- which would carry interest at the rate of 7.5% per annum.

(iii) The appellant / claimant is directed to pay the 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 / United India Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.1,00,393/- (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.123 of 2006 on the file of the Motor Accident Claims Tribunal / Principal Subordinate Court, Krishnagiri 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 due process of law.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mbi

To

1.The Motor Accidents Claims Tribunal,
The Principal Subordinate Court, Krishnagiri.

Copy to:

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

+1cc to Mr.d.Bhaskaran , Advocate SR.No. 96771

+1cc to Mr.P.Mani , Advocate SR.No. 96151

CMA.No.2556 of 2010

A.SK(24/07/2020)