

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.1351 of 2011

N.Govindan

... Appellant / Petitioner

Vs.

The Commanding Officer,
Coast Guard Air Station,
Chennai.

... Respondent / Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 23.11.2010, in M.C.O.P.No.1610 of 2001 on the file of the Additional District and Sessions Judge, Motor Accidents Claims Tribunal, III Fast Track Court, Chennai.

For Appellant : Mr.M.Kavi Kannan for
Mr.N.Nallappan

For Respondent : Mr.N.Rajan, SCGSC

JUDGMENT

The appellant is the claimant in M.C.O.P.No.1610 of 2001, on the file of the Motor Accidents Claims Tribunal, III Fast Track Court, Chennai. Challenging the quantum of compensation the claimant has filed this Civil Miscellaneous Appeal for enhancement.

2.Heard, Mr.N.Rajan, Senior Central Government Standing Counsel appearing for the respondent.

3.Based upon the evidence, the Trial Court has fixed the liability on the part of the driver of the two wheeler belonging to the respondent Coast Guard Air Station and the First Information Report has been registered under Ex.P2 for the offence U/s 279, 337 IPC in Crime No.87 of 2001 and based upon the oral and documentary evidence, the Trial Court has come to the conclusion that due to the rash and negligent driving by the driver of the respondent vehicle, the accident had taken place. Accordingly, the negligence was fixed on the respondent and the said finding is hereby confirmed.

4. On the point of quantum the learned counsel for the appellant and the respondent herein. After perusal of Ex.P3, the case sheets of the claimant/appellant, the age is noted as 55 years and though PW2, Dr.Thiagarajan, who had issued Ex.P5-Disability Certificate fixed the disability at 35%, since the Doctor examined him after 10 years of the accident and also for want of necessary details, the Trial Court disbelieved the findings and fixed the compensation at Rs.5,000/- for the injuries. After going through the charge sheet under Ex.P3 and also the injury said to have been sustained by the claimant/appellant the compensation is fixed at Rs.15,000/- for injuries instead of Rs.5,000/- awarded by the Tribunal and Rs.5,000/- for transportation instead of Rs.1,000/-, and Rs.5,000/- for nutrition and extra nourishment, Rs.5,000/- under the head of loss of earning is granted. For pain and suffering Rs.5,000/- is enhanced. The Trial Court has already observed that the claimant/appellant is not entitled for interest from 16.11.2005 to 11.08.2009. The same is hereby confirmed.

5. Accordingly, the award of the Tribunal in M.C.O.P.No.1610 of 2001 is modified/enhanced as follows:

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1	Loss of earning	Rs. 3,000/-	Rs. 5,000/-
2.	Transportation	Rs. 1,000/-	Rs. 5,000/-
3.	Extra nourishment	Rs. 1,000 /-	Rs. 5,000 /-
4.	Pain & suffering	Rs. 2,500/-	Rs. 5,000/-
5.	Injuries	Rs. 5,000/-	Rs. 15,000/-
	Total	Rs. 12,500/-	Rs. 35,000/-

The compensation awarded by the Tribunal is enhanced from Rs.12,500/- to Rs. 35,000/- which shall carry interest at the rate of 7.5% per interest.

6. In the result,

(i) The Civil Miscellaneous Appeal is allowed in part. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.12,500/- to Rs.35,000/-.

(iii) The respondent herein - Coast Guard Air Station is directed to deposit the entire compensation of Rs.35,000/- (if not 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 M.C.O.P.No. 1610 of 2001, dated 23.11.2010, on the file of the Motor Accidents Claims Tribunal, III Fast Track Court, Chennai within a period of twelve weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the appellant/claimant is permitted to withdraw the entire amount after following the due process of law.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District and Sessions Judge,
The Motor Accidents Claims Tribunal,
Fast Track Court - III,
Chennai.
2. The Record Clerk,
VR Section,
High Court, Madras.

+1 cc to Mr.N.Rajan, Advocate, S.R.No.16091

C.M.A.No.1351 of 2011

GJ-II(CO)
SSM(23/05/2019)

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