

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.1370 of 2011

G.Hariharan

... Appellant

Vs.

1. P.Krishnaperumal

2. The New India Assurance Co. Ltd.,
Motor Third Party Claims Office,
No.45, Moore Street,
Chennai - 1.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 11.11.2008, in M.A.C.T.O.P.No.4025 of 2006 on the file of the Motor Accidents Claims Tribunal, II Judge, Small Causes Court, Chennai.

For Appellant : Mr.R.Arundattan for
M/s.C & K Law Firm

For Respondents: R1 - Set exparte
R2 - Mr.S.Manohar

JUDGMENT

The appellant is the claimant in M.C.O.P.No.4025 of 2006, on the file of the Motor Accidents Claims Tribunal, II Judge, Small Causes Court, Chennai.

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

3.The accident has taken place due to the rash and negligent driving by the driver of the first respondent is not in dispute. On the quantum of compensation, both the parties have been heard.

4.From the documentary evidence adduced before the trial Court, On 20.09.2006 at about 21.30 hours, the appellant was proceeding in his motorcycle bearing Registration No.TN-22-AR-2434 along the Velachery Main Road from South to North direction, when he was waiting for traffic clearance near Doshi & Doshi Apartments, a car bearing Registration No.TN-76-B-2704 came from opposite direction and turned towards West in a rash and negligent manner without following traffic rules and regulations and dashed against the motor cycle, due to which the appellant sustained grievous injuries. S-10, Pallikaranai Police was registered a case in Crime No.1078 of 2006. The accident occurred only due to rash and negligent driving by the driver of the Tata Indica Car and hence the 1st respondent as the owner and 2nd respondent as an insurer are liable for the claim.

5.It is seen that the appellant/claimant has suffered fractures of Pelvis, right iliac bone near the sacro iliac joint and minimal concentric disc bulge at L3-L4 & L4-L5 and working as proprietor of Thiripura Sundary Civil Constructions and Contractors at the time of the accident. After considering the evidence of PW2, the Doctor has assessed the partial and permanent disability of the appellant/claimant at 30% for fracture of Occipital bone and Petrous Temporal bone and 35% for minimal concentric disc bulge at L3-L4 & L4-L5 and at 25% for fracture of pelvis totally 90%. The appellant/claimant deposed that he is not able to do his work as before.

6.Taking in to consideration of Medical evidence of PW2- Doctor from the Isabel's hospital, accordingly the compensation has been increased to Rs.1,38,000/- and for transportation it has been increased to Rs.5,000/- and extra nourishment has been increased to Rs.10,000/-, attender charges has been increased to Rs.5,000/- and the quantum is enhanced to Rs.2,68,000/-.

7.Accordingly, the award of the Tribunal in M.A.C.T.O.P.No.4025 of 2006 is modified/enhanced as follows:

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1.	Permanent Disabiilty	Rs.69,000/-	Rs.1,38,000/-
2.	Pain & Suffering and Mental agony	Rs.25,000/-	Rs.25,000/-
3.	Transport	Rs.1,000/-	Rs.5,000 /-
4.	Extra nourishment	Rs.4,000/-	Rs.10,000/-
5.	Damages to clothing	Rs.1,000/-	Rs.1,000/-
6.	Motor Cycle damages	Rs.1,000/-	Rs.1,000/-
7.	Attender Charges	Rs.2,000/-	Rs.5,000/-
8.	Medical Expenses	Rs.1,50,000/-	Rs.1,50,000/-
9.	Loss of earnings	Rs.15,000/-	Rs.15,000/-
	Total	Rs.2,68,000/-	Rs.3,50,000/-

The compensation awarded by the Tribunal is enhanced from Rs.2,68,000/- to Rs.3,50,000/- which shall carry interest at the rate of 7.5% per interest.

8. 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.2,68,000/- to Rs.3,50,000/-.

(iii) The second respondent herein - New India Assurance Company is directed to deposit the entire compensation of Rs.3,50,000/- (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.A.C.T.O.P.No.4025 of 2006, dated 11.11.2008 on the file of the Motor Accidents Claims Tribunal, II Judge, Small Causes 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-VI)

//True Copy//

Sub Assistant Registrar

arb

To

1. The Motor Accidents Claims Tribunal,
II Judge, Small Causes Court, Chennai.

+1 cc to M/s.C.Murusamy, Advocate, S.R.No.16450

+1 cc to Mr.S.Manohar, Advocate, S.R.No.16183

C.M.A.No.1370 of 2011

KAN(CO)
SSM(23/05/2019)



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