



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2019

CORAM

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2690 of 2009

1. D.Ramasamy

2. The united India Insurance Company Ltd.,
Rep. By its Manager,
111, Narayanapillai Street,
Peramannur, Salem-636 007. ..Respondents 1&2/Appellants

Vs

M.Ponnurangam

..Petitioner/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of M.V.Act, 1988, against the Judgment and decree dated 11.10.2002 in MCOP. No.492 of 2001 passed by the Motor Accidents Claims Tribunal/Subordinate Judge, Krishnagiri.

For appellants : Mrs.R.Srividhya
For respondent : Mr.Selvam

J U D G M E N T

This appeal has been filed by the appellants seeking reduction of the compensation awarded by the Motor Accidents Claims Tribunal/Sub Court, Krishnagiri, in MCOP. No.492 of 2001 dated 11.10.2002.

2.Brief facts which are necessary for disposal of this appeal are as follows:-

On 04.03.2001 at about 07.15 P.M., when the respondent/claimant was riding his Motor Cycle bearing Registration No.TN 29 T 600 from South to North, near Harur Uthangarai junction road, at that time, the driver was driving a bus bearing registration No.TN 27 M 3022 belongs to the first appellant and insured with the second appellant, which came from the opposite direction, in a rash and negligent manner, hit the claimant, due to which, the claimant had thrown away and sustained grievous injuries all over the body. The claimant was taken to the Government Hospital, Harur and subsequently, he was admitted and treated at Ruthramurthy Polyclinic, Salem. Alleging that the accident was due to negligent driving of driver of the bus, the respondent/claimant has filed a Petition before the Motor Accidents Claims Tribunal, Harur under Section 166 M.V.Act, claiming compensation of Rs.7,00,000/- and the same was taken on file in MCOP. No.2690 of 2009.



3. Before the Tribunal, during trial, in order to prove the case, the claimant has examined as many as two witnesses viz., P.W.1 and P.W.2 and marked 16 documents viz., Exs.P1 to P16. On the side of the respondents, no one was examined and no documents were marked. The Tribunal, after hearing the arguments on either side and after considering the oral and documentary evidences, has come to the conclusion that the accident occurred only due to negligence of the first respondent. As the first respondent's bus was insured with the second respondent insurance company, the Tribunal held that the first respondent and the second respondent/Insurance company are liable to compensate the claimant. After considering the oral and documentary evidence, the Tribunal has awarded a sum of Rs.4,10,000/- as compensation to the claimant with interest at the rate of 9% per annum from the date of petition till the date of realization.

4. Aggrieved by the award, the appellants [owner of the bus and Insurance Company] have filed this appeal before this Court for reduction of the compensation.

5. The learned counsel for the appellants would submit that the accident had occurred only due to the negligence driving of the respondent/claimant. In order to prove his age, occupation and income, the respondent has not produced any documentary evidence before the Tribunal. The injuries sustained by the respondent are all simple in nature. The learned counsel would further submit that the quantum of compensation awarded by the Tribunal is excessive and there is no basis for awarding such compensation. Hence, she prays to reduce the amount awarded by the Tribunal.

6.The learned counsel for the respondent - claimant would submit that the Tribunal has correctly considered the materials and evidence on record and has correctly fixed the negligence on the driver of the Bus. It is also submitted that the compensation awarded by the Tribunal is just, fair and reasonable and hence the same does not require any interference in the hands of this Court.

7. Heard the learned counsel for the appellants and the learned counsel for the respondent and also perused the materials available on record.

8. The respondent was examined as P.W.1 before the Tribunal. He deposed before the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the Bus. Since there was no valid rebuttal evidence on the side of the appellants and the Insurance Company before the Tribunal with regard to negligence aspect and the evidence of P.W.1 remained unchallenged, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver of the Bus bearing Reg.No.TN-29-AA-8917. This Court is not inclined to interfere with the said finding.



9. The details of the compensation awarded by the Tribunal are as follows:

Heads	Amount awarded by the Tribunal (Rs.)
Loss of Income	30,000/-
Pain and suffering	1,50,000/-
Permanent disability	1,30,000/-
Damages to Clothes	10,000/-
Transport and Medical Expenses	90,000/-
Total	4,10,000

10. In this regard, The amounts awarded by the Tribunal towards pain and sufferings and permanent disability are excessive. Hence, the same are reduced to Rs.60,000/- from Rs.1,50,000/- and Rs.65,000/- from Rs.1,30,000/- respectively. The Tribunal has not awarded any amount towards attender charges and extra nourishment. Considering the nature of injuries and disability suffered by the claimant, this Court is inclined to grant a sum of Rs.15,000/- and Rs.10,000/- towards attender charges and extra nourishment respectively. The amount awarded by the Tribunal towards medical expenses and transportation shall stand modified to Rs.10,000/- towards transportation and Rs.95,000/- towards medical expenses. The claimant is working as Manager, Co-operative Marketing Society, Harur. In view of the same, the Tribunal has erred in awarding a sum of Rs.30,000/- towards loss of income and the same is not applicable to the claimant.

11. The amount of compensation of Rs.4,10,000/- is reduced to Rs.2,61,000/- under the following heads :-

Heads	Amount (Rs.)
Permanent disability	65,000/-
Pain and sufferings	60,000/-
Transport	10,000/-
Extra Nourishment	10,000/-
Medical Expenses	95,000/-
Attender Charges	15,000/-
Damage to clothes	6,000/-
Total	2,61,000/-

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12. In the result, the order of Tribunal in MACTOP No.2690 of 2009 is modified and this appeal is partly allowed. The



Compensation amount of Rs.4,10,000/- is reduced to Rs.2,61,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization.

13. The appellants - owner of the bus and the Insurance Company are directed to deposit the award amount as ordered by this Court with interest jointly or severally, after deducting the amount if any already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal. No costs.

RLI

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Subordinate, Motor Accident Claims Tribunal,
Krishnagiri.

+lcc to Mr.R. Srividhya, Advocate, S.R.No.102961
+lcc to Mr.M. Selvam, Advocate, S.R.No.102793

AD(CO)
Eu 9.7.2020

C.M.A.No.2690 of 2009