

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.808 of 2010

L.Raguveer

... Appellant

Versus

- 1. G. Selva Raj
- 2. United India Insurance Co. Ltd.,
- No.19. Andiappa Gramani Street,
- Royapuram, Chennai 600 113. Respondents

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 16.12.2009 made in MACT O.P.No.1247 of 2006 on the file of the III Judge, Motor Accidents Claims Tribunal, (Court of small causes), Chennai.

For Appellant	:Mr.P.T. Salim Fathima
For R1	:Exparte
For Respondent 2	:Mr.S.Arun Kumar

J U D G M E N T

This appeal has been filed against the Judgment and Decree dated dated 16.12.2009 made in MACT O.P.No.1247 of 2006 on the file of the III Judge, Motor Accidents Claims Tribunal, (Court of small causes), Chennai.

2. On 13.03.2006 at about 4:15 p.m, when the first appellant was walking in Pedestrian cross in Kamarajar Salai near War Memorial a Motor Cycle bearing Registration No.TN-04-X-0751 came in the opposite direction at a very high speed in a rash and negligent manner and dashed the appellant. The accident occurred due to the negligent act of the rider of the motor cycle. In the result the appellant sustained grievous injuries hence, he filed M.C.O.P.No.1247 of 2006 on the file of the Motor Accidents Claims Tribunal, III Judge of Small Causes Court, Chennai, seeking compensation for a sum of Rs.1,,00,000/- The Tribunal,

on a consideration of oral and documentary evidence, has awarded a sum of Rs.1,07,000/- payable with interest at the rate of 7.5 % per annum.

3. Challenging the quantum of the award amount, the appellant has filed this appeal.

4. The learned counsel for the appellant contends the appellant was walking the Pedestrian cross only and in any way he is not responsible for the accident. The first respondent lethargic attitude is the cause for the accident.

5. The learned counsel for the respondent contends that the petitioner has not proved that the rider of the motor cycle possessed valid policy for the alleged vehicle at the time of the accident. He further states that after arriving compensation amount, certain amount, should be deducted as contributory negligence as the appellant herein is also liable for the accident.

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

7. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has not awarded a just and fair compensation, which need interference by this Court in this appeal and the quantum of compensation assessed by the Tribunal, needs to be enhanced by modifying the amount in two heads. The Tribunal has awarded Rs.9,000/-for loss of income and Rs.30,000/- for permanent disability now, the amount awarded under both the heads are being increased to Rs.15,000/- and Rs.50,000/- respectively. All other heads remains unchanged.

8. Thus, after modifying the above two heads the award amount is enhanced to Rs.1,33,000 from Rs.1,07,000/- under the following heads.

S.No.	Particulars	Amount awarded by the Tribunal	Amount awarded by the Tribunal
1	Loss of earnings	Rs.9,000/-	Rs.15,000/-
2	Transport Expenses	Rs.2,000/-	Rs.2,000/-
3	Extra Nourishment	Rs.2,000/-	Rs.2,000/-
4	Damage to clothing articles	Rs.1,000/-	Rs.1,000/-

S.No.	Particulars	Amount awarded by the Tribunal	Amount awarded by the Tribunal
5	Medical Expenses	Rs.33,000/-	Rs.33,000/-
6	Attender Charges	Rs.5,000/-	Rs.5,000/-
7	Mental Agony to petitioner	Rs.10,000/-	Rs.10,000/-
8	Pain and sufferings	Rs.15,000/-	Rs.15,000/-
9	Partial and permanent disability	Rs.30,000/-	Rs.50,000
	Total	Rs.1,07,000/-	Rs.1,33,000/-

9. In the result,

- (a) this appeal is partly allowed.

(b) the respondent/Insurance Company is directed to deposit the award amount, less the amount already deposited, with interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit the appellant is directed to file proper application before the Tribunal and withdraw the amount.

(e) There will be no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To.
The Motor Accident Claims Tribunal,
III Judge, Court of Small Causes at Chennai.

+1cc to M/s.S.Arunkumar, Advocate Sr.21620
+1cc to M/s.M.Swamikkannu, Advocate Sr.21183

C.M.A. No.808 of 2010

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srg 26/08/2019