

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.2844 of 2011

R.Rajavelu

...Appellant/Petitioner

Vs.

1.Madhavan

2.National Insurance Company Limited,
Divisional Office I,
LRN Complex,
Saradha College Road,
Salem - 7.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 10.01.2011, in M.C.O.P.No. 219 of 2006 on the file of the Motor Accidents Claims Tribunal, II Additional Subordinate Judge, Salem.

For Appellant : Mr.K.Kuppusamy

For Respondents : Mrs.N.B.Surekha for R2
R1 - Exparte-NA

JUDGMENT

The appellant is the claimant in M.C.O.P.No.219 of 2006 on the file of the Motor Accidents Claims Tribunal, II Additional Subordinate Judge, Salem. He has filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.20,00,000/- for the injuries sustained by him in a road accident that took place on 02.04.2010.

2. The brief case of the appellant/claimant is as follows:

(i) The appellant is a sports coach by profession and he was earning a sum of Rs.10,000/- per month.

(ii) On 02.04.2010, at about 15.00 hours, the injured was riding his TVS Suzuki along Rasipuram - Mallur road near Shankar Agencies Petrol bunk. At that time, a lorry bearing Registration No. TN 27 L 8875, belonging to the first respondent herein, hit him, as a result of which, he

sustained grievous injuries all over his body. The injured was immediately taken to SKS Hospital, Salem.

3. According to the appellant/claimant, the rash and negligent driving of the driver of the lorry bearing Registration No. TN 27 L 8875 was the cause of the accident, and that, since, the said lorry was insured with the second respondent herein, both the first and second respondents herein, are jointly and severally liable to pay compensation of Rs.20,00,000/- to him.

4. The learned Tribunal, after analysing the evidence on record, awarded a compensation of Rs.1,50,000/- together with interest at the rate of 7.5% per annum to the appellant/claimant. Not 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 both sides and perused the materials available on record.

6. Dr. P. Sridhar (PW2) has assessed the partial permanent disability as 45%. This court is of the considered view that when Dr. P. Sridhar (PW2) has assessed the disability as 45%, the same has to be taken up and therefore, awarding a sum of Rs.45,000/- towards partial permanent disability would meet the ends of justice.

7. The appellant/claimant has produced medical bills (Ex.P6) to the tune of Rs.1,71,848.80/-. But, the Tribunal has awarded only a sum of Rs.1,05,000/- towards medical expenses and therefore, a sum of Rs.1,71,850/- is awarded towards medical expenses. Apart from the above said amount, the appellant/claimant is entitled to a sum of Rs.8,000/- towards loss of amenities.

8. Accordingly, the award of the Tribunal in M.C.O.P.No. 219 of 2006 is modified as follows:

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1	Transport to Hospital	Rs.5,000/-	Rs.5,000/-
2.	Extra nourishment	Rs.10,000/-	Rs.10,000/-
3.	Medical expenses	Rs.1,05,000 /-	Rs.1,71,850 /-

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
4.	Compensation for Pain and sufferings	Rs.30,000/-	Rs.30,000/-
5.	Disability	NIL	Rs.45,000/-
6.	Loss of amenities	NIL	Rs.8,000/-
	Total	Rs.1,50,000 /-	Rs.2,69,850/-

The compensation awarded by the Tribunal is enhanced from Rs.1,50,000 /- to Rs.2,69,850/- which shall carry interest at the rate of 7.5% per interest.

9. 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.1,50,000 /- to Rs.2,69,850/-.

(iii) The second respondent herein - National Insurance Company Limited is directed to deposit the entire compensation of Rs.2,69,850/- (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. 219 of 2006, dated 10.01.2011, on the file of the Motor Accidents Claims Tribunal, II Additional Subordinate Judge, Salem within a period of eight 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

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To

The Motor Accidents Claims Tribunal,
The II Additional Subordinate Court,
Salem.

+1cc to Mr.K.Kuppusamy, Advocate, S.R.No.12530
+1cc to M/s.N.B.Surekha, Advocate, S.R.No.11953

C.M.A.No.2844 of 2011

KJ(CO)
CB(21/08/2020)



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