

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2879 of 2011 and
M.P.No.1 of 2011

M/s. The New Assurance Co. Ltd.,
Vellore.Appellant/2nd Respondent
Vs.

1.R.Narishman
2.M.Senthil ... Respondents/Petitioner/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 19.11.2007, in M.C.O.P.No. 487 of 2002 on the file of the Motor Accidents Claims Tribunal, Cheyyar, Tiruvannamalai District.

For Appellant : Mr.J.Chandran

For Respondents : Mr.K.G.Senthil Kumar
for R1

JUDGMENT

This Civil Miscellaneous Appeal is filed by the New Assurance Company Limited, challenging, the Judgment and decree passed in M.C.O.P.No. 487 of 2002, on the file of the Motor Accidents Claims Tribunal, Cheyyar, Tiruvannamalai District. They have filed the present appeal questioning both the liability to pay compensation as well as the quantum of compensation awarded by the Tribunal.

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

On 24.06.2002, the first respondent/claimant was riding his two wheeler bearing Registration No. TN 25 Y 4021, at about 05.00 pm, he stopped his two wheeler near Brahmadesam, Pudhur Bus stand. While, sitting on his two wheeler, he was talking to his friend one Ganesan, at that time, another two wheeler bearing Registration No. TN 25 X 3043, hit the two wheeler bearing Registration No. TN 25 Y 4021, as a result of which, the first respondent/claimant fell down and sustained grievous injuries. Immediately, he was taken to CMC Hospital, where he

was treated as an inpatient for 14 days and as an outpatient for 3 months. According to the first respondent/claimant, the rash and negligent driving of the driver of the two wheeler bearing Registration No. TN 25 X 3043, belonging to the second respondent herein, was the cause of the accident, and that, since, the same was insured with the New Assurance Company Limited, both of the owner and the insurer are jointly and severally liable to pay compensation of Rs.5,00,000/- to him.

3. The learned Tribunal after taking note of the oral and documentary evidence, awarded compensation of Rs.1,21,222/- together with interest at the rate of 7.5% per annum to the first respondent/claimant. Aggrieved over the orders passed by the Tribunal, the New Assurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. The learned counsel appearing for the appellant would contend that the Tribunal has awarded a sum of Rs.40,000/- towards the 'disability' sustained by the first respondent/claimant and another sum of Rs.20,000/- towards the 'two grievous injuries' sustained by the first respondent/claimant. He would contend that, if, compensation is awarded under the head 'disability', then there is no need to award compensation under the head 'two grievous injuries', but, the Tribunal has wrongly awarded compensation under these two heads. He would further contend that the compensation awarded under the other heads are also excessive.

5. Heard both sides.

6. After going through the documents adduced before this Court, namely, the wound certificate (ex.p8) and the wound certificate (ex.p2) issued by the CMC Hospital, it could be seen that the Tribunal has awarded a sum of Rs.40,000/- towards the 'disability' sustained by the first respondent/claimant and another sum of Rs.20,000/- towards the 'two grievous injuries' sustained by the first respondent/claimant. Awarding compensation under the two different heads namely 'disability' and 'two grievous injuries' is not necessary. Therefore, the award of Rs.20,000/- passed in respect of 'two grievous injuries' is alone hereby set aside.

7. Accordingly, the award of the Tribunal in M.C.O.P.No. 487 of 2002 is modified as follows:

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1	Two grievous injuries	Rs.20,000/-	NIL

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
2.	Disability	Rs.40,000/-	Rs.40,000/-
3.	Extra nourishment	Rs.2,000/-	Rs.2,000/-
4.	Pain and sufferings	Rs.10,000/-	Rs.10,000/-
5.	Medical expenses	Rs.40,222/-	Rs.40,222/-
6.	Loss of amenities	Rs.5,000/-	Rs.5,000/-
7.	Transportation	Rs.2,000/-	Rs.2,000/-
8.	Loss of Income	Rs.2,000/-	Rs.2,000/-
	Total	Rs.1,21,222 /-	Rs.1,01,222/-

The compensation awarded by the Tribunal is scale down from Rs.1,21,222/- to Rs.1,01,222/- 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. Consequently, the connected Miscellaneous Petition is closed.

(ii) The quantum of compensation awarded by the Tribunal is scaled down from Rs.1,21,222 /- to Rs.1,01,222 /-, which shall carry interest at the rate of 7.5% per annum.

(iii) It is represented by the learned counsel appearing for the present appellant - Insurance Company that, at the time of admission, the Insurance company have deposited the entire award amount. Therefore, the present appellant is permitted withdraw the balance of Rs.20,000/- along with the proportionate interest after following due process of law.

(iv) The first respondent/claimant is permitted to withdraw the entire compensation awarded to him after following the due process of law. सत्यमेव जयते

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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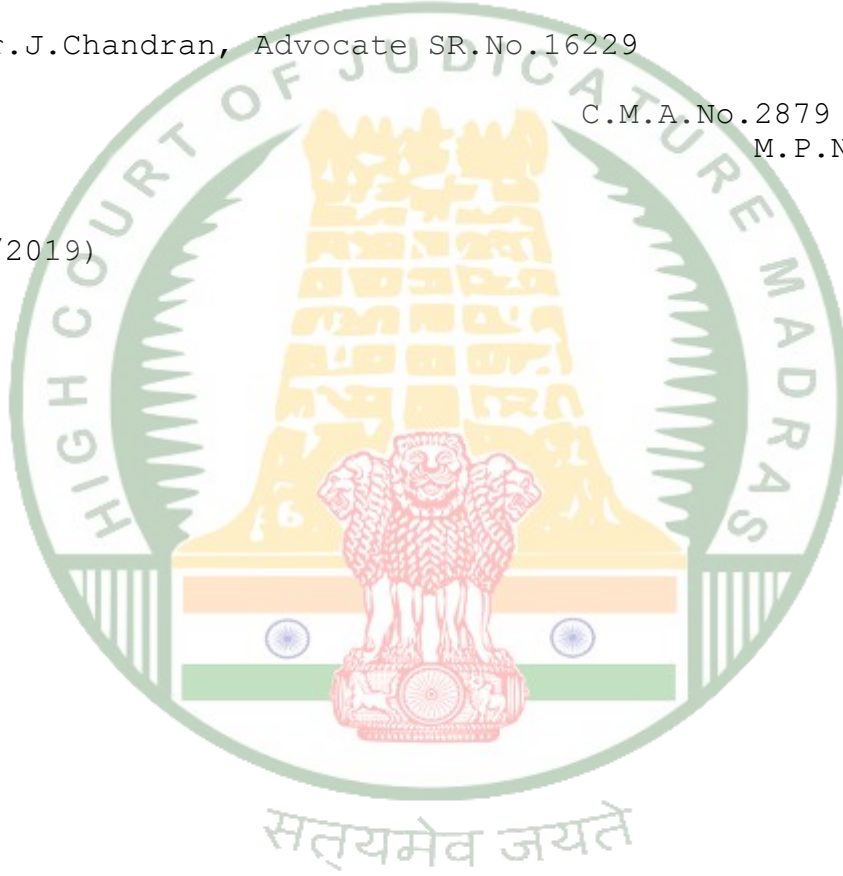
1. The Motor Accidents Claims Tribunal Judge,
The Motor Accidents Claims Tribunal,
Cheyyar,
Tiruvannamalai District.
2. The Section Officer,
VR Section,
High Court, Madras

+1cc to Mr.KG.Senthilkumar, Advocate SR.No.15819

+1cc to Mr.J.Chandran, Advocate SR.No.16229

C.M.A.No.2879 of 2011 and
M.P.No.1 of 2011

KK (CO)
GMY (21/05/2019)



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