

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3355 of 2011

R.Ravi

...Appellant/ Petitioner

Vs.

1. K.Nawabjan

2.United India Insurance Co. Ltd.,
Divisional Office 25,
No.1090, Poonamallee High road,
Chennai - 600 084.

.... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 02.12.2010, in M.C.O.P.No. 2292 of 2008 on the file of the VI Small Causes Court, Motor Accidents Claims Tribunal, Chennai.

For Appellant : Mr.R.Kalai Arasan

For Respondent : Mr.S.Arun Kumar
No.2 R1 - exparte

JUDGMENT

The appellant is the claimant in M.C.O.P.No.2292 of 2008, on the file of the VI Small Causes Court, Motor Accidents Claims Tribunal, Chennai. He has filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.14,00,000/- for the injuries sustained by him in a road accident that took place on 06.12.2007.

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

On 06.12.2007, at about 13.30 hours, the appellant/claimant was riding a motorcycle bearing Registration No. TN 20 7354 from Chetpet to Native village Udayathangal, Thiruvannamalai District along Poongunam - Chetpet salai. At that time, a bus bearing Registration No. TN 25 X 7893, belonging to the first respondent

herein, came from the opposite direction in a rash and negligent manner and dashed against the appellant/claimant's motorcycle, as a result of which, he sustained grievous injuries. According to the appellant/claimant, the rash and negligent driving of the driver of the bus bearing Registration No. TN 25 X 7893 was the cause of the accident, and that, since, the said bus was insured with the second respondent herein, both the first and second respondents herein, are jointly and severally liable to pay compensation of Rs.14,00,000/- to him.

3. The owner of the said bus remained absent before the Tribunal and therefore, he was set ex-parte. The United India Insurance Company Limited contested the claim petition. The learned Tribunal, after analysing the evidence on record, awarded compensation of Rs.6,02,695/- 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.

4. Heard both sides.

5. A perusal of the records shows that the manner of the accident and the rash and negligence fixed on the part of the driver of the first respondent herein are not in dispute. After going through the compensation awarded by the Tribunal under various heads, it seen that the Tribunal has given its own reasoning for adopting multiplier method in the present case. Hence, this court is of the considered view that the compensation already awarded to the appellant/claimant is more than sufficient. Since, no amount was awarded by the Tribunal under the head 'loss of amenities', a sum of Rs.20,000/- is awarded towards the same.

6. Accordingly, the award of the Tribunal in M.C.O.P.No. 2292 of 2008 is modified as follows:

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1	Disability	Rs.4,59,000/-	Rs.4,59,000 /-
2.	Loss of income	Rs.60,000/-	Rs.60,000 /-
3.	Transportation	Rs.18,000 /-	Rs. 18,000 /-
4.	Extra nourishment	Rs.15,000/-	Rs.15,000 /-
5.	Medical expenses	Rs.695/-	Rs.695/-
6.	Pain and sufferings	Rs.50,000/-	Rs.50,000 /-
7.	Loss of Amenities	NIL	Rs.20,000/-
	Total	Rs. 6,02,695/-	Rs.6,22,695 /-

7. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed to the limited extent indicated above. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.6,02,695 /- to Rs.6,22,695 /-.

(iii) The appellant/claimant is directed to pay the court fee for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the receipt of court fee.

(iv) The second respondent - the United India Insurance Company Limited is directed to deposit the entire compensation of Rs.6,22,695 /- (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. 2292 of 2008, dated 02.12.2010, on the file of the VI Small Causes Court, Motor Accidents Claims Tribunal, Chennai within a period of eight weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the Insurance Company, the appellant/claimant is permitted to withdraw the entire amount after following the due process of law.

mbi

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To
The Motor Vehicle Claims Tribunal,
VI Court of Small Causes,
Chennai.

Copy to:-

The Section Officer,
V.R.Section,
High Court, Madras - 104.

+lcc to Mr.S.Arun Kumar, Advocate, SR.No.16218

+lcc to Mr.N.M.Muthurajan, Advocate, SR.No.15866

C.M.A.No.3355 of 2011

Kak(24/05/2019)