

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.12.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2466 of 2013

Manimaran ... Appellant/ Petitioner

Vs

1.Mathialagan

2.The Senior Superintendent of Police,
Karaikal,
O/o. Senior Superintendent of Police,
Karaikal.

3.Union of India,
Rep by it's Chief Secretary,
Government of Puducherry,
O/o.Chief Secretariat,
Puducherry. Respondents/ Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and decree dated 27.02.2013 made in MACTOP. No. 40 of 2012 passed by the Motor Accident Claims Tribunal, Presiding officer/District Judge, Karikal.

For Appellant : Mr.S.Sounthar
For 2nd & 3rd respondents : Mr.Stalin Abimanyu
GA.(Pondy)
For 1st respondent : S.Ravi

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 27.02.2013 made in M.A.C.T.O.P.No.40 of 2012 on the file of the Motor Accident Claims Tribunal, District Court, Karikal.

2.The appellant is the claimant in M.A.C.T.O.P.No.40 of 2012 on the file of the Motor Accident Claims Tribunal, District Court, Karaikal. He filed the above claim petition, claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 09.10.2011 .

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

On 09.10.2011, at about 15.00 hours when the petitioner was going on his motor cycle bearing registration No.PY-02/C-4158 from South to North at Main Road, near K.M.G.Nagar, Thalatheru on the extreme western side of the Thaar road, the first respondent who was driving the police jeep bearing registration No.PY-01/G.4515, which was followed by the petitioner's vehicle, suddenly made a U turn without giving any signal, due to which the petitioner who was coming behind the first respondent's vehicle suffered an unexpected hit and fell on the road along with his motor vehicle, as a result of which, the petitioner suffered multiple fracture on his left collar, shaft of femur. According to the claimant, the rash and negligent driving of the first respondent is the cause of the accident.

4. Before the Tribunal, during trial, in order to prove the case of the claimant, two witnesses have been examined and 10 documents viz., Exs.P1 to P10 have been marked. On the side of the respondents, they have examined two witness and marked 6 documents Viz., Exs.R1 to R6. The Tribunal, after hearing the arguments on either side and after considering the oral and documentary evidences, held that the accident had occurred only due to rash and negligent driving by the driver for the jeep/first respondent and the second respondent, who is the owner of the offending vehicle and awarded a sum of Rs.1,23,584/- as compensation to the claimant.

5. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal for enhancement of compensation.

6. The learned counsel appearing for the appellant contended that the compensation awarded by the Tribunal is meagre and it has to be enhanced since the appellant was admitted in the Government Hospital, Karaikal and after first aid the appellant continued his treatment for a long time as outpatient. However, the Tribunal has not awarded any amount towards loss of income for the period of treatment since even after discharge, the appellant was unable to attend his work due to injuries suffered by him and the Tribunal ought to have adopted multiplier method as regards the disability sustained by the appellant. He also contended that the Tribunal awarded a meagre compensation towards pain and suffering, Transportation, extra nourishment and medical expenses and it has to be enhanced. The Tribunal has not awarded any amount towards loss of amenities. Moreover the appellant underwent for surgery in his bones. He further submitted that the appellant was unable to sit or stand properly and he is not able to do his earlier avocations without the help of others and also the vehicle was not insured with as the Government Vehicles are exempted from insurance.

7. Per contra, learned counsel appearing for the second respondent contended the Tribunal awarded a sum of Rs.22,500/- for three months towards loss of income. The Tribunal fixed a sum of Rs.7,490/- per month as notional income of the appellant, which is excessive. Therefore, the appellant is not entitled to any amounts towards Transportation and Loss of amenities. The

amounts awarded by the Tribunal under different heads are not meagre and prayed for dismissal of the appeal.

8. Heard the learned counsel appearing for the appellant/claimant as well as the learned counsel appearing for the second respondent and perused the materials available on record.

9. It is the contention of the appellant that at the time of accident, he was working in the Port as Diploma Engineer and was earning a sum of Rs.7,490/- per month. The appellant failed to substantiate the said contention. The accident occurred in the year 2011 and the notional income fixed by the Tribunal is not meagre. This Court does not find any infirmity in the said conclusion of the Tribunal as regards the loss of income is concerned. Thus, the compensation awarded by the Tribunal towards Loss of income for a sum of Rs.22,500/- and a sum of Rs.36,084/- awarded towards medical expenses and other heads are just and reasonable.

10. Considering the nature of injuries and period of treatment taken by the appellant, the Tribunal has awarded a sum of Rs.5,000/- and Rs.25,000/- towards extra nourishment and pain and sufferings are not meager. The Tribunal has not granted any compensation towards loss of amenities, this Court inclined to grant a sum of Rs.15,000/- towards Loss of amenities. Likewise, a sum of Rs.10,000/- awarded under the head of transportation. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Pain and suffering	25,000/-	25,000/-
2.	Extra nourishment	5,000/-	5,000/-
	Partial disability	35,000/-	35,000/-
3.	Medical expenses	36,084/-	36,084/-
4.	Loss of income for three months	22,500/-	22,500/-
5.	Transportation	-----	10,000/-
6.	Loss of amenities	-----	15,000/-
	Total	Rs.1,23,584/-	Rs.1,48,584/-

10.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,23,584/- is hereby enhanced to Rs.1,48,500/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondents are directed to deposit the enhanced award amount now determined by this Court jointly or severally together with interest and costs, less the amount already deposited, if any within a period of six weeks from the date of receipt of a copy of this order to the credit of M.C.O.P.No.40 of 2012 on the file of the Motor Accident Claims Tribunal, District Court, Karaikal. On such deposit, the appellant is permitted to withdraw the enhanced award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by filing separate petition before the Tribunal. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

tta
To

The Motor Accident Claims Tribunal,
Presiding officer/District Judge, Karikal.

Copy to:

The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.S.Sounthar , Advocate SR.No. 103553

+1cc to Mr.S.Ravi, Advocate SR.No. 103636

+1 cc to Government Pleader Pandy Sr.No. 104162

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A.SK(23/09/2020)

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