

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.803 of 2011

Syed Samath

...Appellant

Vs.

1. M.Sreenivas

2. Oriental Insurance Company Limited,
No.16-1-25, 1st Floor,
M.F.Road, T.T.Complex,
Hindupur.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 15.06.2010, in M.C.O.P.No. 1249 of 2006 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Krishnagiri.

For Appellant : Mr.Mugund R.Pandian

For Respondents : Mr.J.Chandran for R2
R1 - Not ready in notice

JUDGMENT

The appellant is the claimant in M.C.O.P.No.1249 of 2006, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Krishnagiri. 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 17.03.2005.

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

(i) The appellant/claimant was working as a lorry owner-cum-driver, earning a sum of Rs.8,500/- per month.

(ii) On 17.03.2005, at about 07.00 am, the appellant/claimant was walking on the left side of the road in Bangalore to Hosur NH7 road. At that time, a lorry bearing

Registration No. KA 19 A 3180, belonging to the first respondent, hit him, as a result of which, he fell down and the wheels of the said lorry ran over the left hand of the appellant/claimant. A criminal case was registered against the driver of the said lorry in Cr.No.131 of 2005. According to the appellant/claimant, the rash and negligent driving of the driver of the lorry bearing Registration No. KA 19 A 3180 was the cause of the accident, and that, since, the said lorry was insured with the second respondent, both the first and second respondents, are jointly and severally liable to pay compensation of Rs.20,00,000/- to him.

3. The owner of the said lorry remained absent before the Tribunal and therefore, he was set ex-parte. The Oriental Insurance Company Limited contested the claim petition. The learned Tribunal, after analysing the evidence on record, awarded a compensation of Rs.3,98,350/- 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. The learned counsel appearing for the appellant/claimant contended that on the date of the accident, the claimant was aged 55 years and therefore, the proper multiplier to be adopted in the instant case is 9 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

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

6. It is pertinent to point out that the appellant/claimant underwent an operation for his left hand crush injuries and his left hand above the elbow was amputated. Dr. T.V.Gandi (PW2) has assessed the partial permanent disability as 60%. As the age of the deceased on the date of the accident was 55 years, the proper multiplier to be adopted in the instant case is 9. The Tribunal has fixed the monthly income of the injured as Rs.6,000/- and the same is taken up for calculating 'compensation for income'.

Calculation:

$$\begin{aligned}\text{Compensation for income} &= \text{Rs.6,000/-} \times 12 \times 9 \times 60/100 \\ &= \text{Rs.3,88,800/-}\end{aligned}$$

7. Since, the appellant/claimant's left hand above the elbow was amputated, some person must have looked after him at least for three months and therefore, a sum of Rs.15,000/- is awarded towards attender's charges. A sum of Rs.3,000/- and Rs.20,000/- awarded under the heads 'extra nourishment' and 'pain and sufferings' is enhanced to Rs.7,000/- and Rs.30,000/- respectively. The appellant/claimant is also entitled to a sum of Rs.10,000/- towards 'loss of amenities'.

8. Accordingly, the award of the Tribunal in M.C.O.P.No. 1249 of 2006 is modified as follows:

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1.	Compensation for income	Rs.3,45,600/-	Rs.3,88,800/-
2.	Pain and sufferings	Rs.20,000/-	Rs.30,000/-
3.	Extra nourishment	Rs.3,000 /-	Rs.7,000 /-
4.	Medical bills	Rs.25,000/-	Rs.25,000/-
5.	Taxi bills	Rs.4,750/-	Rs.4,750/-
6.	Loss of amenities	NIL	Rs.10,000/-
7.	Attender's charges	NIL	Rs.15,000/-
	Total	Rs. 3,98,350/-	Rs.4,80,550/-

The compensation awarded by the Tribunal is enhanced from Rs.3,98,350/- to Rs.4,80,550/- which shall carry interest at the rate of 7.5% per interest.

9. In the result, सत्यमेव जयते

(i) The Civil Miscellaneous Appeal is allowed in part. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.3,98,350/- to Rs.4,80,550/-.

(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 Oriental Insurance Company Limited is directed to deposit the entire compensation of Rs.4,80,550/- (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. 1249 of 2006, dated 15.06.2010, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Krishnagiri 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.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

- 1) The Motor Vehicle Claims Tribunal,
The Chief Judicial Magistrate,
Krishnagiri.
- 2) The Section Officer,
VR Section,
High Court, Madras.

+1 cc to Mr.Mukund R.Pandian, Advocate, S.R.No.12164

+1 cc to Mr.J.Chandran, Advocate, S.R.No.12452

C.M.A.No.803 of 2011

NRL (CO)
SSM(07/05/2019) .

सत्यमेव जयते

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