

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.389 of 2015
and
M.P.Nos.1 & 2 of 2015

1.The Superintendent of Police,
Cuddalore District,
Superintendent of Police Office,
Cuddalore - 1.

2.The Director General of Police,
Mylapore,
Chennai, Tamil Nadu.

.. Appellants/ Respondents 2&3

Vs.

1.Anandharaj

.. R1/ Petitioner

2.Balamurugan

.. Respondent 2/ R1

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 02.04.2014 in MCOP.No.59 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Chidambaram.

For Appellants : Mr.S.Jaganathan
Government Advocate (CS)

For R1 : Mr.T.Gobinath
For R2 : No Appearance

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J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the judgment and decree dated 02.04.2014 in MCOP.No.59 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Chidambaram.

2.The 1st respondent herein is the claimant aggrieved against the award of the Tribunal at Rs.7,15,000/- against the claim of Rs.20,00,000/-.

3.The brief facts is as follows:
On 08.08.2009 at about 12.00 noon when the claimant was proceeding in TVS Star City motorcycle bearing Reg.No.PY-01-AP-1800 in the B.Mutlur Road at that time a police escort vehicle which came in the opposite direction driven in a rash and negligent manner, hit against the claimant's two wheeler as a result, the claimant sustained severe injuries including fracture, he was given treatment. In spite of effective treatment, he sustained disability and he claimed a sum of Rs.20,00,000/- as compensation.

4.The 2nd respondent/Superintendent of Police in the counter statement denied the mode of accident and also negligence on the part of the driver of the 1st respondent vehicle. It is only the claimant contributed to the accident by riding his motorcycle rash and negligently. The total compensation awarded by the Tribunal is very excessive.

5.The Tribunal after analyzing the evidence and documents especially the judgment of the Criminal Court, has observed that the finding of the Criminal Court will not bind the Tribunal and fixed the negligence on the appellant herein. By considering the document, nature of injuries, period of treatment, medical expenses and loss of income incurred by the appellant and awarded a sum of Rs.7,15,000/- as compensation against the claim of Rs.20,50,000/- under the following heads:

S.No	Head	Compensation (in.Rs.)
1.	Loss of income	Rs.1,45,000/-
2.	Transportation	Rs.50,000/-
3.	Extra nourishment	Rs.25,000/-
4.	Medical expenses	Rs.2,50,000/-
5.	Attendant charges	Rs.25,000/-
6.	Pain & suffering	Rs.1,00,000/-
7.	Disability	Rs.1,20,000/-
Total		Rs.7,15,000/-

6.Aggrieved against the said award the respondents 2 & 3 have preferred this appeal. In the grounds of appeal, the rash and negligent on the part of the appellant is also very much

denied and the expenses incurred by the respondent and further stated that the evidence are not sufficient to prove the disability. On the whole, the quantum arrived by the Tribunal is stated as excessive and against the judgment passed by Hon'ble High Court as well as Hon'ble Supreme Court. Hence, the appeal has been filed to set aside the judgment and decree dated 02.04.2014.

7. Heard Mr.S.Jaganathan, learned Government Advocate (CS) appearing for the appellants and Mr.T.Gobinath, the learned counsel appearing for the 1st respondent and perused all the materials on record.

8. On perusal of the records, it is seen that the accident occurred on 08.08.2009 and the case was also registered by the concerned police station and charge sheet was lodged and the trial also applied only judgment / Ex.R1 pending that the accused was acquitted and he was given only benefit. The appellant relied upon on the finding of the Criminal Court, wherein it is stated that only benefit is given to the appellant herein is that the eyewitness also sustained grievous injuries and hence the finding of the Tribunal in that aspect is very much reasonable. Based on the evidence as well as the documents while determining the award, the Tribunal has observed that the claimant is an Advocate at the time of accident and was '27' years. Hence, it is the finding of the Tribunal that the injured person, who is by occupation as Advocate would earn Rs.5,000/- per month which no one can deny the same and accordingly assessed income on that basis by considering the nature of injuries. Due to the injuries, the claimant underwent three surgeries and he was under treatment for a number of days. P.W.2-Doctor assessed the disability of the claimant at 60% and the Tribunal was also accepted the same. But, this Court modifies the disability at 50% and by taking Rs.2,000/- per percentage granted a sum of Rs.1,00,000/- under the head disability. Similarly, the sum of Rs.1,00,000/- awarded by the Tribunal towards pain and suffering is excessive and the same is reduced to Rs.50,000/-. The amount awarded by the Tribunal under other heads are confirmed. Thus the compensation awarded by the Tribunal is modified as follows:

Heads	sum awarded by the tribunal	sum modified by this Court
Loss of Income	Rs. 1,45,000/-	Rs.1,45,000/-
Transportation	Rs. 50,000/-	Rs. 50,000/-
Extra nourishment	Rs. 25,000/-	Rs. 25,000/-
Medical expenses	Rs.2,50,000/-	Rs.2,50,000/-

Heads	sum awarded by the tribunal	sum modified by this Court
Attendant charges	Rs. 25,000/-	Rs. 25,000/-
Pain & suffering	Rs.1,00,000/-	Rs. 50,000/-
Disability	Rs.1,20,000/-	Rs.1,00,000/-
Total	Rs. 7,15,000/-	Rs. 6,45,000/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,15,000/- is hereby modified to Rs.6,45,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. No costs. Consequently, connected Miscellaneous Petitions are closed.

10.The appellants are directed to deposit the modified award amount now determined by this Court along 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 judgment. On such deposit, the 1st respondent/claimant is permitted to withdraw the modified award amount along with interest and costs, less the amount if any, already withdrawn. The 1st respondent is permitted to withdraw the excess amount, if any lying in the deposit to the credit of MCOP.No.59 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Chidambaram if the entire award amount has already been deposited by them.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mtl

To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Chidambaram.

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

+lcc to Mr.T.Gobinath , Advocate SR.No. 51081

+1 cc to Spl Government Pleader Sr.No. 50255

C.M.A.No.389 of 2015
and

M.P.Nos.1 & 2 of 2015

A.SK(05/02/2020)