



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2019

CORAM :

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.363 of 2012

Mr.T.Periasamy ... Appellant /Petitioner

Versus

1.T.Jothivel

2.M/s.United India Insurance
Company Limited,
Pallivasal street,
Perambalur - 625 212

... Respondents/Respondents

Common Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 31.10.2003 passed in M.C.O.P.No.3 of 2002, on the file of the Motor Accidents Claims Tribunal, District Judge, Perambalur.

For Appellant	:Mrs.V.Renukadevi
For Respondents	:Tapal returned (for R1)
	:Mr.J.Chandran (for R2)

J U D G M E N T

This appeal arises against the award of the Motor Accident Claims Tribunal, District Judge, Perambalur passed in M.C.O.P.No.3 of 2002, on 31.10.2003.

2. Appellant is the claimant. First respondent is the owner of the offending vehicle and second respondent is the insurer thereof. On 30.07.2001 at about 07.45 hours, while appellant was walking on the Thiruvallanthurai to Koil main road, for attending his nature's call, at that time, a lorry bearing Regn.No.TN-45-W-1859, hit the appellant from behind resulting which, he sustaining grievous injuries. Hence, the appellant sought compensation of Rs.4,00,000/-.

3.Before the Tribunal, on the side of appellant/claimant, two witnesses were examined and four exhibits were marked. None were examined on the side of second respondent insurance company



nor were any exhibits marked.

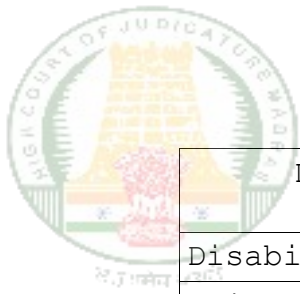
4. On appreciation of materials produced before it, the Tribunal, under the award dated 31.10.2003, found that the accident occurred owing to the rash and negligent driving of the lorry and awarded a sum of Rs.50,000/- as compensation and directed the first and second respondents jointly and severally liable to pay compensation of Rs.50,000/- with interest at 9% p.a. from the date of petition till the date of deposit.

5. The learned counsel appearing for the appellant would contend that there is no dispute with regard to the rash and negligence manner of driving. Hence, this present appeal is filed, seeking enhancement of compensation as against the award of the Tribunal.

6. Heard learned counsel appearing for the appellant and learned counsel appearing for the second respondent/ Insurance company.

7. It is seen from the records and the deposition of PW.2/Doctor, examined the claimant and issued Ex.P4/ disability certificate, assessing the disability at 35%. The Tribunal awarded Rs.35,000/- by taking Rs.1000/- per percentage and awarded total compensation of Rs.35,000/-. Taking into consideration the date of accident being the year of 2002, the compensation passed by the Tribunal was found to be reasonable.

8. Having regard to the nature of the injuries, Rs.5,000/- awarded towards pain and suffering is enhanced to Rs.10,000/-. The Tribunal did not award any amount towards transportation. Considering the period of hospitalisation, a sum of Rs.5,000/- is awarded towards transport charges. Furthermore, this Court is inclined to award a sum of Rs.3,000/- each under the heads Loss of amenities, Attender charges, Extra-nourishment. Though no proper medical evidence was produced before the Tribunal, it awarded a sum of Rs.5,000/- towards medical expenses, which is hereby confirmed. Considering the nature of injury, the claimant could not attend his work for the period of two months. Hence, this Court is inclined to award a sum of Rs.6,000/- towards loss of income. However, the award granted under the head loss of estate shall stand set aside. Break-up details of the award amount is hereby tabulated as follows:-



WEB COPY

Description	Amount awarded by Tribunal	Amount awarded by this Court
Disability	Rs.35,000/-	Rs.35,000/-
Pain and suffering	Rs.5,000/-	Rs.10,000/-
Medical expenses	Rs.5,000/-	Rs.5,000/-
Loss of estate	Rs.5,000/-	-
Loss of income	-	Rs.6,000/-
Loss of amenities	-	Rs.3,000/-
Transport charges	-	Rs.5,000/-
Attender charges	-	Rs.3,000/-
Extra-nourishment	-	Rs.3,000/-
Total	Rs.50,000/-	Rs.70,000/-

9. In the result, the appeal filed by the claimants is Partly allowed.

(ii) The Insurance company is directed to pay the compensation amount Rs.70,000/- with interest at 7.5% per annum from the date of claim petition, till the date of payment, within a period of eight weeks from the date of receipt of a copy of this Judgement.

(iii) On such deposit being made, the claimant is entitled to withdraw the compensation amount, by moving appropriate application before the Tribunal.

(iv) The claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. No costs. Consequently, the connected miscellaneous petition is closed.

(v) The claimant is not entitled to the interest for the compensation amount, during the delay period between the date of award of the Tribunal and the date of numbering the appeal. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

klt



To

WEB COPY

1. The Motor Accidents Claims Tribunal,
District Judge, Perambalur.
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1 cc to Mr.P.K.Jamal Mohamed Advocate sr37536
+1 cc to Mr.J.Chandran Advocate sr37815

C.M.A.No.363 of 2012

ln(co)
aa26/09/2019