

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3666 of 2013

P.Ravi ... Appellant/Petitioner

Vs

1 Ramesh Kumar

2 The united India Insurance Company Ltd.,
Rep. By its Manager,
89/1, 2nd Floor,
11th Cross, Sampige Road,
Malleshwaram,
Bangalore-560 003. ... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed Under Section 173 of Motor Vehicle Act, against the Judgment and decree dated 19.08.2009 in MCOP No.1227 of 2007 passed by the Chief Judicial Magistrate -cum- Motor Accidents Claims Tribunal, Krishnagiri and held that the second respondent Insurance Company is liable to pay the compensation.

For Appellant : Mr.M.Selvam
For 2nd respondent : Mr. C.Paranthaman - R2
For 1st respondent : Mr.Mukund R.Pandiyar

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, Krishnagiri in M.C.O.P.No.1227 of 2007, dated 19.08.2009.

2. It is the case of the appellant that on 18.03.2007 at about 14.30 hours, the appellant/claimant was proceeding from Mathimarathupatti to Dharmapuri by his motorcycle bearing Registration No.TN 29 H 9590. When he was riding the two wheeler near the place of accident a LMV Maruthi Van bearing Registration No.KA 01 P 2562 which was proceeding from Dharmapuri to Krishnagiri on NH-7 Road in a rash and negligent manner, dashed against the appellant. As a result, the appellant sustained grievous injuries and he was admitted in the Government Hospital as in-patient. Subsequently, he had admitted in St. John's Medical College Hospital, Bangalore for further treatment. Hence, the appellant had filed a claim petition before the Tribunal against the owner of the vehicle and its insurer, claiming a sum of Rs.9,00,000/- as compensation.

3. In order to prove his claim, the appellant has examined himself as P.W.1 and two other witnesses and marked as many as ten documents viz., Exs.P1 to P8. On the side of the respondents, one witness was examined and no evidence was adduced.

4. After analyzing the evidences, the Tribunal has come to the conclusion that the accident had taken place due to the rash and negligent driving of the driver of the Maruti van. Therefore, the Tribunal has awarded a sum of Rs.1,08,558/- as compensation to the claimant.

5. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal.

6. The learned counsel for the appellant even though raised various grounds in the appeal for enhancement of compensation, at the time of arguments, he contended that the accident was occurred due to rash and negligent driving of the driver of the van. The learned counsel for the appellant contended that the accident took place on 18.03.2007. Subsequently, the appellant was admitted in the Government Hospital, Dharmapuri as in patient. Thereafter, he was admitted in St. Hohn's Medical College Hospital, Bangalore from 19.03.2007 to 29.03.2007 and underwent surgeries. The Doctor, who treated the injured, assessed the disability at 30%. But the Tribunal without considering the same, has not awarded any amount towards permanent disability.

7. The learned counsel would further submit that the appellant is working as Head Constable and due to the accident he sustained injuries. Because of this, the appellant got delay for getting promotion. Further, the learned counsel would submit that the Tribunal failed to award the compensation under the heads of loss of amenities and attendant charges during the period of treatment. The Tribunal,

without considering all these facts, awarded a sum of Rs.1,08,558/- as compensation to the claimant, is very meager and the learned counsel prayed for enhancement of the compensation.

8. Per contra, the learned counsel appearing for the 2nd respondent contended that the Tribunal considering the materials on record, by giving reason, has not awarded any amount for permanent disability. But, the award amount of Rs.1,08,658/- passed by the Tribunal, is excessive. The nature of injuries and treatment taken by the appellant was considered in detail and the compensation awarded by the Tribunal is not meager and there is no necessity to enhance the amounts and prayed for dismissal of the appeal.

9. Heard the learned counsel for the appellant as well as the respondent and also perused the available materials on record before this Court.

10. From the materials on record, it is seen that P.W.2 Doctor has certified that the appellant suffered 30% of permanent disability. The Tribunal, after analyzing the oral and documentary evidence, came to the conclusion that if the appellant is suffered by the permanent disability, he could not able to do his duty. Therefore, the Tribunal has not award any amount towards permanent disability. The Tribunal independently considering the Accident Register, disability certificate, X-ray and evidence of P.W.2, held that due to the grievous injuries, the Tribunal has awarded a sum of Rs.50,000/- towards grievous injuries. Considering the nature of injuries sustained by the appellant, this Court is enhanced the amount of Rs.75,000/- instead of Rs.50,000/- for grievous injuries. The learned counsel for the appellant submitted that the appellant spent a sum of Rs.41,658/- for medical expenses. For which, he has produced the medical bills. There is no error for awarding a sum of Rs.41,658/- towards medical expenses passed by the Tribunal. A sum of Rs.1,000/- and Rs.1,000/- granted by the Tribunal for extra nourishment and transportation, respectively, are meager. Considering the nature of treatment taken by the appellant, he is entitled for a sum of Rs.2,500/- towards extra nourishment and Rs.5,000/- towards transportation. The appellant was admitted in various hospital at Dharmapuri and Bangalore. Considering the same, this Court is inclined to grant a sum of Rs.2,500/- towards attender charges. The amounts granted by the Tribunal in all other heads are just and reasonable and hence, they are hereby 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.	Grievous Injury	50,000/-	75,000/-
2.	Pain and sufferings	10,000/-	10,000/-
3.	Mental Agony	5,000/-	5,000/-
4.	Transportation	1,000/-	5,000/-
5.	Extra Nourishment	1,000/-	2,500/-
6.	Medical Expenses	41,658/-	41,658/-
	Total	1,08,658/-	1,39,158/- rounder off to Rs.1,39,160/-

9. With the above modification, this appeal is partly allowed. The 2nd respondent-Insurance Company is directed to deposit the enhanced award amount of Rs.1,39,160/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the award amount

along with interest and costs, after adjusting the amount, if any, already withdrawn, by making necessary applications before the Tribunal. No costs.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

rli
To

The Chief Judicial Magistrate -cum-
Motor Accidents Claims Tribunal,
Krishnagiri .

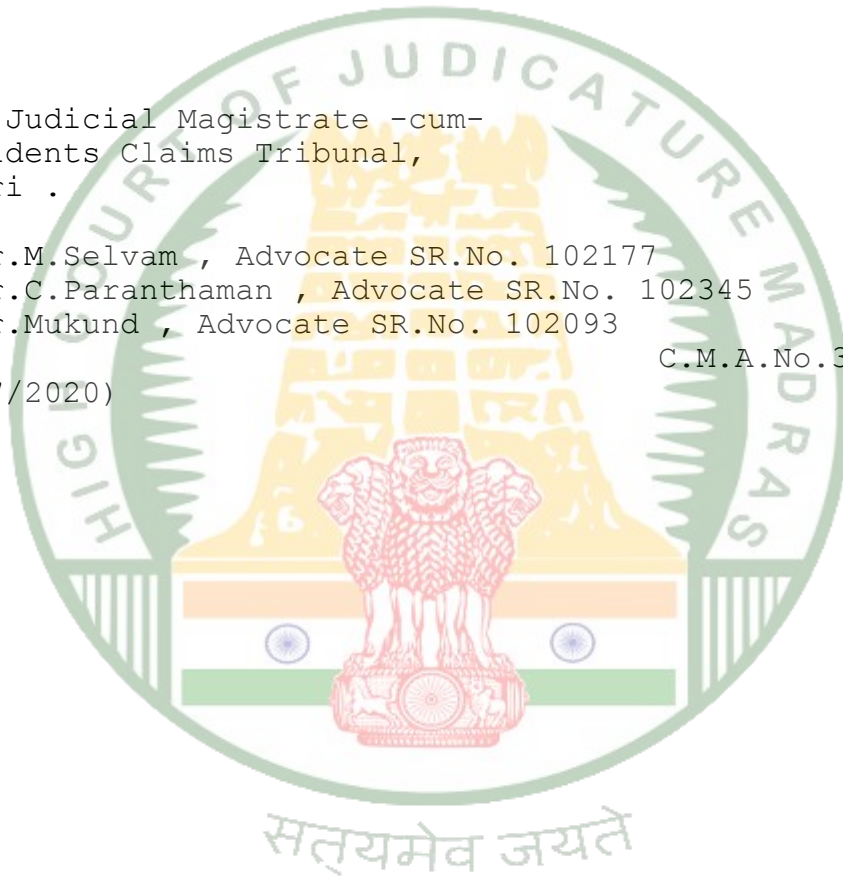
+1cc to Mr.M.Selvam , Advocate SR.No. 102177

+1cc to Mr.C.Paranthaman , Advocate SR.No. 102345

+1cc to Mr.Mukund , Advocate SR.No. 102093

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A.SK(16/07/2020)



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