

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.3771 of 2013

Rajangam ... Appellant/Petitioner

vs.

1.Baskaran
2.The Divisional Manager,
United India Insurance Co. Ltd.,
No.46, Katpadi Salai,
Vellore. ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 08.03.2012 passed in MCOP.No.161 of 2008 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Tiruvannamalai.

For Appellant : Mrs.M.Malar

For Respondents : Mr.J.Chandran for R2
No appearance for R1
Exparte before Tribunal

J U D G M E N T

The appellant is the claimant in MCOP.No.161 of 2008 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Tiruvannamalai. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident on 15.09.2007.

2. The case of the claimant is that on 15.09.2007, he was riding his motorcycle bearing Registration No. TN 25 J 2877 on Thiruvannamalai - Polur road, near Indira Nagar and at about 03.30 pm, a speeding car bearing Registration No. TN 22 AC 4584 belonging to the first respondent and insured with the second respondent hit him, as a result of which, he sustained grievous injuries all over his body.

3. According to the claimant, the rash and negligent driving of the driver of the car belonging to the first respondent was the cause of the accident and that since the said car was insured with United India Insurance Company, the owner and the insurer are jointly and severally liable to pay compensation.

4. The learned Chief Judicial Magistrate / Motor Accident Claims Tribunal, Tiruvannamalai after analysing the evidence on record, awarded a compensation of Rs.95,000/- together with interest at the rate of 7.5% per annum to the claimant. Not being 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.

5. Mrs.M.Malar, learned counsel appearing for the appellant / claimant contended that though the claimant had sustained a head injury, the Tribunal had awarded a very meagre compensation of Rs.95,000/- to him. She therefore prayed for enhancement of compensation.

6. Mr.J.Chandran, learned counsel appearing for the United India Insurance Company contended that the Tribunal had awarded a just compensation of Rs.95,000/- after considering all the aspects of the case and therefore, the same need not be disturbed at this stage.

7. No appearance on behalf of the first respondent.

8. The Tribunal has awarded a sum of Rs.60,000/- towards partial permanent disability. Considering the nature of injuries sustained by the claimant, the same is upheld. Apart from this, a sum of Rs.10,000/- is awarded towards "extra nourishment". It is also seen from the records that, immediately after the accident, the claimant was admitted in the Government Hospital, Tiruvannamalai and subsequently was shifted to the Apollo Hospital, Madurai. Hence, he would have definitely incurred an expenditure of Rs.10,000/- towards "Transportation". The Tribunal did not also award any amount towards "attender's charges" and therefore a sum of Rs.2,000/- is awarded towards the same.

9. The award passed by this Court under different heads is extracted hereunder:

S.No .	Head	Amount granted by this Court
1.	Partial permanent disability	Rs.60,000/-

S.No .	Head	Amount granted by this Court
2.	Pain and sufferings	Rs.25,000/-
3.	Transportation	Rs.10,000/-
4.	Extra nourishment	Rs.10,000/-
5.	Attender's charges	Rs.2,000/-
Total		Rs.1,07,000/-

10. In the result,

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

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.95,000/- to Rs.1,07,000/-, which shall carry interest at the rate of 7.5% per annum.

(iii) The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

(iv) The second respondent / United India Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.1,07,000/- (less the amount 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 MCOP.No.161 of 2008 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Tiruvannamalai within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
The Chief Judicial Magistrate,
Tiruvannamalai.

2.VR Section,
High Court of Madras.

+1cc to M/s.M.Malar, Advocate SR.93103
+1cc to Mr.J.Chandran, Advocate SR.93241

CMA.No.3771 of 2013

VG II(CO)
CB(18/09/2020)



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