

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.01.2020

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2067 of 2010

Mariappan @ Punniyamoorthy ...Appellant/ Petitioner/Claimant

Vs

1. Shanthi

2. United India Insurance Company Limited
Having Office at South Car Street,
Chidambaram,
Cuddalore District. ...Respondents/ Respondents

Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, against the award and Decree of Motor Accident Claims Tribunal (Principal Sub Court), Mayiladuthurai, dated 09.12.2009 made in MCOP.No. 251 of 2007.

For Appellant : Mr.S. Sounthar
For Respondent : Mr.M.Krishnamoorthy - R2

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 Accident claims Tribunal, Principal Sub Court, Mayiladuthurai, made in M.C.O.P.No. 251 of 2007 vide order dated 09.12.2009 for enhancement of compensation.

2. It is the case of the claimant that on 04.03.2007 at about 7.30 A.M., he was riding his auto rickshaw from Sirkali to Chidambaram and when he was crossing puthur Polytechnic College a bus bearing Registration No.TN-31-H/4039, came near the auto rickshaw of the appellant in a hectic speed and hit behind the vehicle of the appellant. Due to the said accident, the appellant sustained multiple injuries all over his body. Thereafter, the appellant was admitted in R.M.M.C.Hospital at Annamalai Nagar as in-patient. Hence, the appellant has filed a claim petition before the Tribunal against the owner and insurer of the bus, claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident.

<https://hcservices.ecourts.gov.in/hcservices/>

3. Before the Tribunal, during trial, in order to prove his case, the appellant has examined himself as P.W.1 and the Doctor

was examined as P.W.2 and marked as many as eleven documents viz., Exs.P1 to P11. The respondent has not examined any exhibits nor marked any documents.

4. After analyzing the oral and documentary evidences and considering the pleadings made by both the parties, 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 bus and awarded a sum of Rs.66,500/- 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 before this Court.

6. The learned counsel for the appellant would submit even though in the claim petition it has been stated the appellant is an agriculturist, and earned a sum of Rs.5,000/- per month, the Tribunal has not awarded any amount under the head loss of income and the award amount of Rs.66,000/- passed by the Tribunal is very meager. He would further contend that the Tribunal has awarded a sum of Rs.40,000/- under the head disability without considering the percentage of disability assessed by the Doctor, which is unfair and the amount awarded under other heads are also very low. Hence, the learned counsel for the appellant prays for enhancement of compensation.

7. Per contra, the learned counsel appearing for the second respondent / Insurance Company denied all the averments made by the appellant in the claim petition. He would further contend that the driver of the auto rickshaw does not possess valid driving license at the time of accident and also prays to dismiss the appeal.

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

9. The appellant is the claimant and he examined himself as P.W.1 before the Tribunal and deposed that the accident had occurred only due to the rash and negligent driving of the driver of the bus. The learned counsel for the second respondent Insurance Company has also submitted that the driver of the auto rickshaw, has no valid driving license at the time of the accident and the Tribunal also held that the accident had occurred only due to the rash and negligent driving of the driver of the bus. Hence, this Court is not inclined to interfere with the said finding.

10. On a perusal of the records, it is found that the injured was not able to go for his work as before and the Tribunal has not awarded anything towards Loss of income. Hence, the monthly income of the injured is taken as Rs.4,500/- and he has not gone for work for at least 6 months, therefore the claimant is entitled for Rs.27,000/- (Rs.4,500x12) towards loss of income. The Tribunal has awarded Rs.5,000/- towards pain and suffering. Considering the nature of injuries sustained by the

appellant this Court is inclined to enhance the same to Rs.10,000/- and no amount was granted towards loss of amenities hence, Rs.1,500/- is awarded towards loss of amenities. Regarding the other heads viz., permanent Disability, extra nourishment, medical bills and Transportation are reasonable and there is no need to interfere with it.

11. Thus, the award amount of Rs.66,500/- is enhanced to Rs.1,00,000/- under the following heads :-

Sl.No	Heads	Amount awarded by the Trial Court (Rs.)	Amount awarded by this Court (Rs.)
1	Permanent Disability	40,000/-	40,000/-
2	Extra Nourishment	10,000/-	10,000/-
3	Transportation	10,000/-	10,000/-
4	Pain and sufferings	5,000/-	10,000/-
5	Loss of Income	-Nil-	27,000/-
6	Medical Bills	1,500/-	1,500/-
7	Loss of amenities	-	1,500/-
	Total	66,500/-	1,00,000/-

12. With the above modification, the order of Tribunal in MACTOP No.251 of 2010 is modified and this appeal is partly allowed.

13. The Compensation amount of Rs.66,500/- is enhanced to Rs.1,00,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The second respondent -Insurance Company is directed to deposit the entire award amount as ordered by this Court with interest after deducting the amount if any already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant / claimant is permitted to withdraw the same, on making proper application before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS III Mdu)

//True Copy//

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Motor Accident Claims Tribunal,
Mayiladuthurai,

Copy to:

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

+lcc to Mr.M.Krishnamoorthy , Advocate SR.No. 2635

+lcc to Mr.S.Sounthar , Advocate SR.No. 30380

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A.SK(26/08/2020)



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