

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.02.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3462 of 2012

1. Superintending Engineer,
General Construction Circle,
Electricity Board,
Annathanapet, Salem. ..1st Appellant/1st Respondent
2. Divisional Manager,
United India Insurance Company Ltd.,
Having Office at T.K.M. Complex,
Katpadi Road, Vellore. ..IInd Appellant/3rd Respondent
- Vs.
1. Minor. Rajendra Prasad,
S/o. Sampath.
(Minor Represented by his father & Guardian
Sampath). ..1st Respondent/Petitioner
2. Sikkandhar ..2nd Respondent/2nd Respondent

Prayer: This Appeal is filed Under Section 173 of Motor Vehicles Act 1988 against the award and decree dated 03.07.2009 made in M.C.O.P.No.60 of 2008 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Court, (FTC), Vellore.

For Appellant :Mr.S. Arun Kumar

For Respondent-1: MR.R. Vinoth kumar

JUDGMENT

This appeal has been filed by the appellants against the award and decree dated 03.07.2009 made in M.C.O.P.No.60 of 2008 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Court, (FTC), Vellore.

2.The necessary relevant facts are stated hereunder to find out whether the appellant are entitled for relief as prayed in this appeal.

3.The case of the claimant/first respondent is that on 28.12.2002 at about 10.00 a.m, while he was proceeding in his bicycle, a lorry bearing registration No. TN-27-E-1180 belonging to the 1st appellant and driven by the 2nd respondent came in a rash and negligent manner behind the bicycle of the claimant and dashed on it. As a result of which, the claimant fell down. Hence, he filed a claim petition before the Tribunal seeking Rs.10,00,000/- as compensation for the injuries sustained in the accident. The accident occurred due to the rash and negligent driving of the driver of the lorry.

4.On the other hand by filing counter, the appellant/Electricity Board denied the claim of the first respondent and the manner of the accident. They would further contend that there is no rash or negligent on the part of the lorry driver, who is the second respondent herein.

5.Before the Tribunal on the side of the claimant, the father of the claimant was examined as P.W.1 and documents Ex.P.1 to Ex.P.9 were adduced. On the side of the appellants, one witness was examined as R.W.1 but no documents was let in. On the basis of evidence available on record, the Tribunal concluded that the negligence on the part of the driver of the lorry is the cause for the accident and awarded a sum of Rs.7,60,000/- as compensation to the claimant.

6.Aggrieved over the said finding of the Tribunal, the appellants have come forward with the present appeal.

7.The learned counsel for the appellant/Electricity Board contended that the Tribunal erred in awarding huge amount as compensation to the injured. He would further contend that the injuries sustained by the first respondent are simple in nature and he exaggerated the same as permanent disability in order to claim huge amount as compensation. He further submitted that the Tribunal has awarded huge amount as compensation.

8.Per Contra the learned counsel for the first respondent/claimant submitted that the accident occurred due to the inattentive attitude of the driver of the lorry. In any event, the compensation awarded by the Tribunal is very low, when compared to the injuries sustained in the accident. Hence, he prays to enhance the compensation.

9. With regard to negligence aspect, the learned Judge before the Tribunal determined a question in point no.1 that whether the driver of the lorry is the cause for the accident or not?. Ex.P.1/F.I.R supports the case of the claimant/first respondent rather than the appellants. There is no evidence on the part of the appellant. Based on the above evidence the Tribunal concluded that the driver of the lorry is the cause for the accident. Therefore, this Court is of the view that the award passed by the Tribunal with regard to negligence aspect is perfectly valid in the eye of law and does not warrant interference by this Court and the same are confirmed as such.

10. With regard to quantum, injured was admitted as inpatient in C.M.C., Hospital for 19 days hence Rs.10,000/- and Rs.50,000/- was awarded towards Transportation charges and Extra nourishment. Considering the nature of injuries sustained by the claimant Rs.7,00,000/- was awarded towards Pain and sufferings. Thus, awarded Rs.7,60,000/- as total compensation.

11. In view of the above, this Court while re-appreciating the evidence observes that certain heads require modification and they are modified accordingly. With regard to pain and suffering and Extra Nourishment, the Tribunal has awarded Rs.7,00,000/- and Rs.50,000/- respectively, which is very high when compared to the injuries sustained by the injured. Hence, the same is reduced to Rs.40,000/- and Rs.10,000/-. The Tribunal has not awarded any amount towards Disability and Medical Expenses hence Rs.3,00,000/- and Rs.10,000/- was awarded towards the same respectively. Due to the accident the injured facial appearance has been changed hence Rs.15,000/- was awarded towards the same. The amount awarded under the head Transportation remains unchanged. Thus, the amount awarded by this Court is as follows:

Particulars	Amount Awarded by the Tribunal	Amount awarded by this Court
Transportation	Rs.10,000/-	Rs.10,000/-
Extra Nourishment	Rs.50,000/-	Rs.10,000/-
Pain and sufferings	Rs.7,00,000/-	Rs.40,000/-
Disability	-Nil-	Rs.3,00,000/-
Facial disfiguration	-Nil-	Rs.15,000/-
Medical Expenses	-Nil-	Rs.10,000/-
Total	Rs.7,60,000/-	Rs.3,85,000/-

12. With the above said modification this appeal is partly allowed. The 1st appellant is directed to deposit the modified amount of Rs.3,75,000/- with 7.5% p.a from the date of petition till the date of realization, less the amount already deposited if any, within a period of 8 weeks from the date of receipt of a

copy of this Judgment. After making such deposit the claimant/first respondent is permitted to withdraw the amount, by making proper application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

13. At this juncture, it is submitted that the minor claimant/first respondent would have attained majority by now. Hence, on such application being taken out, the Tribunal is directed to consider the same and if satisfied can permit him to withdraw the amount.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Additional District and Sessions Court, (FTC), Vellore.

2.The Section Officer,
V.R Section,
High Court, Madras.

+1 cc to Mr.Arunkumar, Advocate Sr.No. 18416

C.M.A.No.3462 of 2012
and
M.P.No.1 of 2012

MG(CO)
RMP(26/04/2021)

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