

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.02.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3715 of 2012

and

M.P.No.1 of 2012

The Branch Manager,
National Insurance Co. Ltd.,
Anuradha Complex,
III Floor, No.333, Bangalore Road,
Krishnagiri - 635 001. ... Appellant/2nd Respondent

Versus

1.Chinnathambi ...1st Respondent/Claimant
2.S.Parthiban ...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree dated 23.03.2007 made in M.A.C.T.O.P.No.587 of 2006 on the file of Dharmapuri District Motor Accident Claims Tribunal at Krishnagiri (Chief Judicial Magistrate No.2 Court).

For Appellant : Mr. S. Vadivel

For Respondents: Mr. M. Sriram(for R1)

J U D G M E N T

The instant appeal has been filed by the Insurance Company challenging the award dated 23.03.2007 passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, II Court in M.A.C.T.O.P.No.587 of 2006.

2. The brief facts leading to the filing of the instant appeal are as follows:

(i) On 24.12.2004, at about 6.00 pm, the claimant / first respondent was riding his bicycle, on the left side of the road, the Hero Honda Motor Cycle bearing Registration No.TN 23 K 3452 belongs to the first respondent was driven in a rash and negligent manner, as a result the said Motor Cycle dashed the bicycle coming in the opposite direction and the first respondent / claimant sustained grievous injuries over the left

knee joint, right foot, undisplaced condylar fracture left tibia. The first respondent preferred a claim before the Motor Accidents Claims Tribunal in M.A.C.T.O.P.No.587 of 2006 seeking a compensation of Rs.3,00,000/-.

(ii) The Motor accident Claims Tribunal, by its award dated 23.03.2007 in M.A.C.T.O.P.No.587 of 2006 directed the appellant / Insurance Company and 2nd respondent to pay the first respondent a sum of Rs.2,22,680/- together with interest at 7.5% per annum from the date of claim till the date of realisation.

(iii) Aggrieved by the award dated 23.03.2007 passed in M.A.C.T.O.P.No.587 of 2006, the instant appeal has been filed by the Insurance Company.

3. Heard Mr. S. Vadivel, learned counsel for the appellant and Mr. M. Sriram, learned counsel appearing for the respondents.

4. According to the learned counsel for the appellant, the primary ground for challenge in the instant appeal is that the appellant has stated that the Tribunal has fixed the monthly income of the claimant at Rs,3800/-, which is unsustainable because the claimant had not proved his occupation and income clearly. Further it is stated that the wound certificate which was filed by the claimant / first respondent, it is not an authenticated document. Therefore, the learned counsel for the appellant prayed for setting aside the award of the Tribunal.

5. By considering the argument of the appellant, this Court is of the view that the Tribunal has fixed the monthly income at Rs.3,800/- which is modified at Rs.3,000/-. Similarly, the sum awarded under the other heads are also modified. For pain and sufferings Rs.10,000/-, Extra Nourishment Rs.7,000/- was rightly awarded by the Tribunal and the same is confirmed, Damage to Clothings Rs.1,000/-, Transportation Rs.5,000/- and Attended Charges Rs.5,000/-. Therefore, the sum awarded by the Tribunal is modified as Rs.1,91,000/- as below:-

Heads	Amount Awarded by Tribunal (Rs.)	Amount Modified by this Court (Rs.)
Future loss of earning	2,07,480/-	1,63,800/-
Pain and sufferings	7,000/-	10,000/-
Extra Nourishment	7,000/-	7,000/-
Damage to Clothings	200/-	1,000/-

Heads	Amount Awarded by Tribunal (Rs.)	Amount Modified by this Court (Rs.)
Transport	1,000/-	5,000/-
Attended Charges	-	5,000/-
Total	2,22,680/-	1,91,800/-

6. The Insurance Company is directed to deposit the entire amount awarded by this Court, along with interest and costs before the Tribunal within a period of six weeks from the date of receipt of copy of this order, after deducting the amount already deposited, if any. On such deposit being made, the Tribunal shall transfer the amount to the claimant's bank account through NEFT or RTGS within a period of one week thereon. The interest awarded by the Tribunal at the rate of 7.5% per annum is unaltered.

7. Accordingly, the Civil Miscellaneous Appeal is partly allowed by reducing the award of the Tribunal from Rs.2,22,680/- to Rs.1,91,800/- with interest and costs. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

AT
To

1.The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate No.2 Court,
Dharmapuri District, Krishnagiri.

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

+1cc to Mr.S.Vadivel, Advocate, S.R.No.9777

+1cc to Mr.Mukund R.Pandiayn, Advocate, S.R.No.9804

C.M.A.No.3715 of 2012
and
M.P.No.1 of 2012

CP(CO)
CB(20/04/2021)