



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 19.11.2020

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.187 of 2007

M.Chandrasekar

.. Claimant/Appellant

vs.

1.N.Murugesan

2.The New India Assurance Company Limited,
represented by its Branch Manager,
514/515, Gandhi Road,
Kanchipuram.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the award in M.C.O.P.No.2161 of 2001, dated 23.1.2004, on the file of the Motor Accident Claims Tribunal (Principal District Judge),Trichy..

For Appellant :Mr.R.Govindaraj

For Respondent-1 :Dismissed vide order of this
Court, dated 29.11.2017

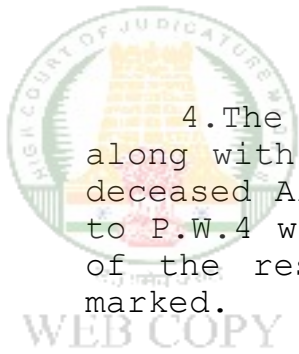
For Respondent-2 :Mr.R.Srinivasan

J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal(Principal District Judge),Trichy in M.C.O.P.No.2161 OF 2001,dated 23.01.2004, the appellant/Claimant has filed this appeal, seeking enhancement of compensation.

2.The case of the appellant is that on 12.6.2001, he was riding his TVS 50 Motor Cycle bearing Registration No.TN 48 9304 in south-north direction on Trichy-Chennai Road. One Alagar was a pillion rider and when they were nearing Sekar Grocery Shop in Konavai, a lorry belonging to the first respondent bearing Registration No.TN 21 C 8835 which came in the opposite direction, was driven by its driver in a rash and negligent manner and dashed against the two-wheeler, in which, the said Alagar died on the spot and the appellant herein sustained injuries on head and hib. He was admitted in Sea Horse Hospital Trichy for treatment. For the injuries sustained by him, the appellant filed a claim petition claiming compensation of Rs.4 lakhs.

3.Resisting the claim, the second respondent Insurance Company filed their counter disputing the manner of accident, age, avocation and income of the deceased and its liability to pay the compensation.



4.The claim Petition filed by the appellant herein was tried along with the other claim petition filed by the legal heirs of the deceased Alagar. During trial, on the side of the claimants, P.W.1 to P.W.4 were examined and Ex.P1 to Ex.P29 were marked. On the side of the respondents, no witness was examined and no document was marked.

5.The Tribunal, on appreciation of evidence, awarded a sum of Rs.1,50,000/-towards medical expenses, transportation and extra nourishment and another sum of Rs.90,000/- for loss of income and for permanent disability and also a sum of Rs.10,000/- towards pain and suffering and in total, awarded a sum of Rs.2,50,000/- with interest at the rate of 9% p.a and direct the second respondent/Insurance Company to pay the said award amount. Aggrieved over the same, the claimant has filed this appeal seeking for enhancement of compensation.

6.A perusal of the records would show that with regard to the medical expenses, P.W.1 and P.W.5, the claimant and the employee of the Hospital have categorically stated that the claimant had spent Rs.2 lakhs towards medical expenses. In support of their evidence, Ex.P20, Ex.P22 and Ex.P23-medical bills have been produced. On going through the documents, the Tribunal has awarded a consolidated amount, sum of Rs.1,50,000/- ie., for medical expenses, transportation and extra nourishment and this amount in the considered opinion of this Court is very meagre. Considering the fact that the claimant had already spent Rs.2 lakhs and needs further sum for future treatment, it would be appropriate to award Rs.2,50,000/- under the head of medical expenses.

7.It is seen that the accident had taken place on 12.6.2001 and immediately, the claimant was admitted in Sea Horse Hospital, Trichy and from 12.6.2001 to 2.8.2001 he was taking treatment as in-patient, for 45 days. P.W.5 has also stated about the treatment given to the claimant. During treatment, the claimant underwent surgeries. Therefore it would be appropriate to award a sum of Rs.30,000/- for pain and suffering and Rs.10,000/- for extra nourishment and another Rs.10,000/- for transportation and also another sum of Rs.10,000/- for attendant charges.P.W.3-Dr.Ravi, who is a specialist in Orthopaedic surgery, has stated that the claimant has sustained 45% disability and has also stated that there was fracture in the hibs and hence the movement of chest has been reduced to 2.7 cms and movement of the hib was also restricted. Ex.P21 is the series of medical bills and Ex.P25 is the X-ray. P.W.4- Dr. Muralidharan, who is an expert in Neuro surgery has stated that after going through the medial report of the claimant and after considering the other related documents, found that the claimant has suffered not only neuro problem but also Psychological problem and ssued Ex.P26-disability Certificate to the effect that he suffered 33% permanent disability. So this Court is of the



towards loss income, which stands confirmed. Hence the award amount is enhanced from Rs.2,50,000/- to Rs.4 lakhs. The enhanced award amount shall carry interest at the rate of 6% pa.,

8. Accordingly, the Civil Miscellaneous Appeal is allowed. The second respondent/Insurance Company is directed to deposit the modified award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the entire award amount, less the amount already withdrawn, if any, together with proportionate interest and costs, by filing necessary application before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsn

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Motor Accident Claims Tribunal,
(Principal District Judge), Trichy.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

+1 CC to M/s.R.GOVINDARAJ, Advocate (SR-22256[F] dated 20/11/2020)

JUDGMENT MADE IN
C.M.A(MD) No.187 of 2007
19.11.2020

VR (CO)

NR (16/12/2020) 3P : 5C

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