



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED 08.12.2020**

**CORAM**

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM**

**C.M.A(MD) No.371 of 2009**  
**and MP(MD).1 of 2009**

The Branch Manager,  
The Oriental Insurance Co., Ltd.,  
Kumbakonam. ... Appellant/2<sup>nd</sup> Respondent

vs.

1.Anbalagan ... 1<sup>st</sup> Respondent/Petitioner  
2.Murali ... 2<sup>nd</sup> Respondent/1<sup>st</sup> Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the Award made in M.C.O.P.No.270 of 2004, dated 14.11.2006, on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Thanjavur.

For Appellant : Mr.K.Bhaskaran  
For R1 : Mr.D.Sivaraman  
R2 : NA

**J U D G M E N T**

This appeal is directed against the award dated 14.11.2006, made in M.C.O.P.No.270 of 2004, on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Thanjavur.

2.Heard Mr.K.Bhaskaran, learned counsel appearing for the appellant as well as Mr.D.Sivaraman, learned counsel appearing for the first respondent and perused the materials available on record.

3.The first respondent filed a claim petition for compensation of Rs.15,00,000/-. According to the claimant, on 02.09.2003 at about 08.00 p.m., when he was riding his motorcycle bearing Registration No.TNJ-5425 from Soorakottai to Thanjavur, near Sivaji Agricultural Firm, the driver of the another two-wheeler bearing Registration No.TN-45-J-9407 owned by the first respondent insured with the appellant Insurance Company drove the vehicle in a high speed and hit against the claimant's vehicle. In the impact, the claimant sustained injuries and immediately, he was taken to Vinothakan Hospital, Thanjavur. According to him, he sustained fracture in both legs and injuries all over the body, therefore, he was treated as inpatient till 13.10.2003 and thereafter, as an outpatient. According to him, he was working as Assistant Public



Relationship Officer in Government of Tamil Nadu and due to the injuries sustained, he finds difficult to perform his duties.

4. The owner of the two-wheeler and the insurer, the appellant herein, filed counter before the Tribunal, disputing the claim made by the first respondent herein. According to them, the claimant was responsible for the accident and he was also not having valid driving licence.

5. During trial, the claimant examined three witnesses and marked 13 documents. On the side of the appellant, two witnesses were examined and three documents were filed.

6. It is seen that the claimant gave evidence as P.W.1 and he narrated the manner of the accident in his evidence. In addition, Ex.P1 FIR, Ex.P2 Motor Vehicle Inspector Report, Ex.P3 Accident Register, Ex.P4-Wound Certificate were marked.

7. R.W.1-Rajendran, the Investigating Officer of the Insurance Company stated that the vehicle belonging to the first respondent in the claim petition was not involved in the accident. The Insurance Company taking advantage of the fact that the complaint was given after a lapse of 10 days and the vehicle was subjected to inspection after 18 days, repudiated the liability on the ground that the vehicle was introduced by the claimant. Though the appellant contended before the Tribunal that the driver of the vehicle did not have valid licence and said to have issued notice under Ex.R2 & Ex.R3 receiving particulars of the driving licence, but did not produce any documents to prove that it was received by the owner as well as the driver of the vehicle.

8. R.W.2 another Investigating Officer of the appellant Insurance company filed a report as Ex.R1 but in support of their report, they have not produced any statement of the witness. Therefore, the Tribunal rejected the evidence of R.W.1 and R.W.2 and held that the driver of the offending vehicle caused the accident. I am of the view that no valid ground is made out in this appeal to upset the said findings.

9. Insofar as the quantum of compensation is concerned, P.W.1-claimant would state that he sustained fracture on the right hand and right leg. One finger was also cut-off in the accident. Further, he sustained fracture on his left shoulder. P.W.2-Doctor V.Jeyabalan, who examined P.W.1, issued a report and stating that the movement in left shoulder has been reduced from 180 degree to 80 degree and movement of the right leg was also reduced from 150 degree to 100 degree. He also found the bone on the right hand damaged and dislocation of four fingers and issued Ex.P12-Wound Certificate and issued disability certificate assessing the permanent disability at 50%. Ex.P13 is the X-ray. P.W.3-Doctor <https://hcservicesportal.in/hcservices/> who treated the claimant from 02.09.2003 to



13.10.2003, gave evidence stating that the claimant was treated by him.

10. Taking note of the fact that the claimant was 45 years old at the time of accident and he suffered 50% permanent disability due to the accident, the Tribunal awarded a sum of Rs.1,12,500/- towards permanent disability. In addition, Rs.12,000/- was awarded for pain and suffering, Rs.98,917/- was awarded for medical expenses, Rs.5,000/- was awarded for extra nourishment and transportation. Totally, a sum of Rs.2,28,417/- was awarded as compensation along with interest at the rate of 9% p.a.,

11. This Court is of the view that the compensation awarded by the Tribunal is just and reasonable. However, considering the fact that the accident had taken place in the year 2003 and the award was passed in the year 2006, the interest alone is to be reduced. Accordingly, the interest is reduced from 9% to 7.5%. In all other aspects, the award of the Tribunal is confirmed.

12. In that view, the Civil Miscellaneous Appeal is dismissed. Since the appeal is dismissed, the appellant is directed to deposit the entire award amount with accrued interest and costs at the rate of 7.5%, 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 being made, the first respondent/Claimant is permitted to withdraw the award amount by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Accidents Claims Tribunal,  
Additional Sub Court, Thanjavur.

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

+1 CC to M/s.D.SIVARAMAN, Advocate ( SR-24967[F] dated 10/12/2020 )

**JUDGMENT MADE IN**  
**C.M.A(MD) No.371 of 2009**  
**08.12.2020**

kmv (CO)  
TR(29.12.2020) 4P 5C