



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.2.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.3027 of 2013

M.P.No.1 of 2013

The Branch Manager,
Oriental Insurance Co. Ltd.,
Branch office, Commandant road,
queens road Cross,
Bangalore - 560 052.

...Appellant/2nd Respondent

..Vs..

1. M.Ganesan
2. K.Kaseem

...Respondent-1/Petitioner

...Respondent-2/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 20.12.2012 made in M.C.O.P.No.887 of 2009 on the file of Principal Subordinate Judge (Motor Accidents Claims Tribunal) Krishnagiri.

For Appellant : Ms.M.S.Janani
For Respondent No.1 : No appearance
For Respondent No.2 : Notice unserved

JUDGMENT

Brief facts of the claimant's case is as follows:

On 11.07.2005 at about 11.00 a.m., while the petitioner was travelling as pillion rider in TVS 50 XL bearing registration No.TN 29 U 7233 and one Subramani was riding the said vehicle abiding road rules from Sipcot towards Zuzuvadi, opposite to Ashok Leyland company in SIPCOT to Zuzuvadi service road, the driver of the Tata Sumo bearing registration No.KA 04 A 3789 drove the same in a rash and negligent manner came from Zuzuvadi towards Hosur and hit against the TVS 50 and thereby caused accident, resulting in the petitioner sustained grievous injuries all over the body. The petitioner was shifted to Government hospital, Hosur where he had taken treatment as inpatient. A case has been registered in Cr.No.187 of 2005 under Sec.279, 337 of I.P.C. Thus, the petitioner has filed the claim petition claiming Rs.20,00,000/- as compensation from the respondents.



2. On the side of the claimants, P.W.1 & 2 were examined and Ex.A1 to A-8 were marked. On the side of the respondent, no witness was examined or any exhibit was marked.

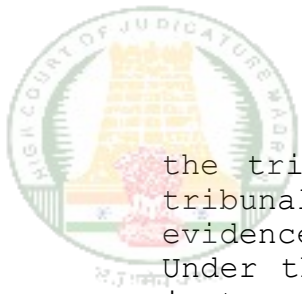
3. Tribunal, based on the oral and documentary evidence adduced by both sides, has held that the appellant/Insurance Company and the owner of the vehicle, second respondent herein are jointly and severally liable to pay a sum of Rs.10,60,876/- as compensation to the claimant along with interest at the rate of 7.5% per annum from the date of claim petition till realization. The total compensation awarded by the tribunal under various heads are as follows:

Heads	Compensation awarded by the tribunal in Rs.
Loss of future income	6,42,600/-
Pain & Suffering	70,000/-
Nutrition	10,000/-
Medical bills	67,676/-
Transport	10,000/-
Attendant charges	10,000/-
Loss of maternal prospects	50,000/-
Future treatment	2,00,000/-
Total	10,60,876/-

4. Challenging the said award, Insurance Company has filed the present appeal both against the liability as well as the quantum of compensation awarded by the tribunal.

5. Heard the learned counsel appearing for the appellant/Insurance Company and perused the materials available on record.

6. The respondent/claimant filed a claim petition claiming Rs.20,00,000/- as compensation for permanent disability suffered by him in the accident as stated supra. The tribunal based on the oral and documentary evidence, came to the conclusion that due to the rash and negligent driving on the part of the offending vehicle, the accident occurred and the claimant suffered 70% disability. According to the counsel appearing for the appellant/Insurance Company, Rs.2,00,000/- awarded by the tribunal towards future treatment is excessive without any basis. The tribunal wrongly assessed the disability and the amount fixed towards each percentage is also exorbitant and there is no record to show the monthly income as fixed by



the tribunal. On a perusal of the award would show that the tribunal has rightly assessed the disability at 70% based on the evidence of P.W.2 and Ex.A7 document marked by the claimant. Under the other heads also, the award passed by the tribunal is just and reasonable compensation to the claimant. Considering at any angle, there is no ground to interfere with the award passed by the tribunal. Therefore, the award passed by the tribunal is confirmed.

7. Consequently, the appeal stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1. The Principal Subordinate Judge
(Motor Accidents Claims Tribunal)
Krishnagiri.
2. The Branch Manager,
Oriental Insurance Co. Ltd.,
Branch office, Commandant road,
queens road Cross,
Bangalore - 560 052.
3. The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104.

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SRA[co]
NSK 15/09/2021