



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2021

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No. 2502 of 2015

Kamalahasan @ Kamal

...Appellant / Petitioner

.. Vs ..

1.N.Rathinam Pillai

2.The Branch Manager,  
New India Assurance Co., Ltd.,  
G.S.T. Road,  
Chengleput.

...Respondents / Respondents

PRAYER: Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, against the fair and decreetal order passed by the learned Additional Subordinate Judge, Chengleput, dated 21.10.2013 in M.C.O.P.No.82 of 2001.

|               |   |                  |
|---------------|---|------------------|
| For Appellant | : | Mr.S.Udhayakumar |
| For R1        | : | No appearance    |
| For R2        | : | Mr.R.Siva Kumar  |

#### JUDGMENT

The claimant/appellant herein has filed this appeal to challenge the award passed by the learned Additional Subordinate Judge, Chengleput, dated 21.10.2013 in M.C.O.P.No.82 of 2001.

2.The brief facts of the case are as follows:

(a) On 02.05.1999, when the petitioner was travelling as a cleaner in a lorry bearing registration No.TN 37 1200, which was proceeding from Tirumangalam to Virudhunagar and when reached near Sivarakottai Bridge, it was driven rashly and negligently and hit against a van bearing registration No. TN 67 A 9244 and thereby, the appellant herein has sustained injuries.

(b) Hence, the appellant herein/claimant has preferred a petition in MCOP.No.82 of 2001 before the Motor Accident Claims Tribunal - learned Additional Subordinate Judge, Chengalpattu, for claiming compensation. After the trial, the learned Judge has directed the second respondent on behalf of the first respondent to pay a sum of Rs.1,22,000/- as compensation to the appellant herein/claimant with 7.5% interest from the date of the presentation of the petitioner on 08.01.2001 till the date of deposit with costs. Having not been satisfied with the



compensation awarded by the Tribunal, the claimant/appellant herein has preferred the present appeal.

3. Heard the learned counsel for the appellant and learned counsel for the second respondent.

4. The factum of the accident, manner of the accident and rash and negligence on the part of the driver of the first respondent vehicle having not been challenged, the finding by the Tribunal is hereby confirmed.

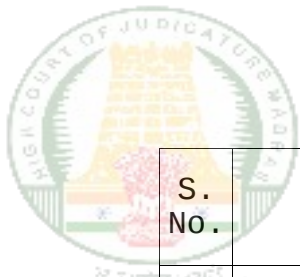
5. After going through the evidence of PW2/Dr.S.Kannan Issac, PW3/Dr.S.Gopalan, Ex.P4/Disability certificate, taking note of the Malunion and the case of the injury, the Tribunal has fixed disability at 39.4% and it does not warrant any interference by this Court.

6. On the point of quantum, the Tribunal has fixed the disability at 39.4% and by calculating the formula as stated in the judgment reported in 2009 (2) TNMAC 133 - Managing Director of Tamil Nadu State Transport Corporation Vs. Rajasekar, this Court has awarded a sum of Rs.78,800/- for disability as compensation, Rs.19,700/- for pain and suffering, Rs.13,500/- for loss of income during the period of treatment (for three months), Rs.5,000/- for transportation and Rs.5,000/- for extra nourishment.

7. Hence, this Court finds that since the accident taken place in the year 1999, there was a delay in filing the appeal.

8. Taking into consideration the evidence of the Doctors viz., PW2, PW3 and Ex.P4/Disability certificate, this Court is of the opinion that the claimant/appellant herein is eligible for attendant charges, loss of amenities and future medical expenses. Hence, this Court is inclined to award a sum of Rs.75,000/- on the heads of attendant charges, loss of amenities, future medical expenses. Hence, compensation awarded by the Tribunal is hereby enhanced by this Court to a sum of Rs.1,97,000/- from Rs.1,22,000/- as follows:

| S. No. | Description                                                    | Amount awarded by the Tribunal (in Rs.) | Amount awarded by this Court (in Rs.) |
|--------|----------------------------------------------------------------|-----------------------------------------|---------------------------------------|
| 1      | Permanent Disability                                           | 78,800/-                                | 78,800/-                              |
| 2      | Pain and Sufferings                                            | 19,700/-                                | 19,700/-                              |
| 3      | Transportation Expenses                                        | 5,000/-                                 | 5,000/-                               |
| 4      | Extra nourishment                                              | 5,000/-                                 | 5,000/-                               |
| 5      | Future Medical Expenses, Loss of Amenities & Attendant Charges | ---                                     | 75,000/-                              |



| S. No. | Description                                               | Amount awarded by the Tribunal (in Rs.) | Amount awarded by this Court (in Rs.) |
|--------|-----------------------------------------------------------|-----------------------------------------|---------------------------------------|
| 6      | Loss of Income during the period of treatment (4,500 x 3) | 13,500/-                                | 13,500/-                              |
|        | Total                                                     | Rs.1,22,000/-                           | Rs.1,97,000/-                         |

9. In view of the pendency, the interest is restricted from the date of numbering to the date of decree awarded by the Tribunal.

10. In the result:-

(i) This Appeal is partly allowed to the limited extent as indicated above. The compensation amount of Rs.1,22,000/- awarded by the Tribunal is hereby enhanced to a sum of Rs.1,97,000/- (Rupees One Lakh Ninety Seven Thousand only). Additional Court fee if any, has to be paid.

(ii) The second respondent is directed to deposit the entire compensation, including interest at 7.5 % from the date of claim petition till the date of payment, and costs, as awarded by this Court, within a period of eight weeks from the date of receipt of a copy of this judgement, after deducting the amount, if any already deposited.

(iii) On such deposit, the claimant is permitted to withdraw the compensation amount in accordance with law. No costs.

Sd/-  
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

dua

To

The Motor Accident Claims Tribunal,  
The Additional Subordinate Judge,  
Chengleput.

+1cc to Mr.S.Udhaya Kumar, Advocate SR.No.3130  
+1cc to Mr.R.Sivakumar, Advocate SR.No.3440

C.M.A.No. 2502 of 2015

AP(CO)  
RVM(02/09/2021)