



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No.456 of 2010

WEB COPY

M.Viswanathan

... Appellant/Claimant

-vs-

1.S.Jesuraj

2.The Manager

M/s.Oriental Insurance Co. Ltd.

Theni

... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree, dated 20.09.2006 in M.C.O.P.No.3 of 2002, on the file of the Motor Accident Claims Tribunal-cum-Sub Court, Ramanathapuram and to remit back for fresh consideration.

For Appellant : Mr.J.Lawrence

For Respondents : R1 - Dismissed
vide order dated 21.06.2017
Mr.K.Bhaskaran for R2

J U D G M E N T

Heard the learned counsel on either side and perused the materials available on record.

2. This civil miscellaneous appeal is filed by the claimant seeking enhancement of compensation. The claim petition filed by the appellant was dismissed by the Motor Accident Claims Tribunal, Sub Court, Ramanathapuram.

3. M.C.O.P.No.3 of 2002 was filed by the appellant seeking compensation of Rs.1,00,000/-. It seems that on 13.01.2001, the appellant travelled in a Tractor bearing registration No.TN67 Z7322, met with an accident and suffered injuries. He was treated as inpatient for 11 days from 13.01.2001 till 23.01.2001 in Madurai Rajaji Government Hospital.

4. The Tribunal dismissed the claim petition on the sole ground that the accident did not take place in a public place. It is an admitted fact that the driver, who drove the Tractor, succumbed to the injuries sustained in the accident and the



appellant also sustained injuries. Ex.P2 is the Wound Certificate and Ex.P3 is the Outpatient Record. The evidence of the appellant, who was examined as P.W.1, would show that he sustained injuries in the accident and the accident took place in a bund of the field.

5. It is the practice in the villages permitting public to use the bund for access. In the said background, the contention of Mr.K.Baskaran, learned counsel for the second respondent - Insurance Company that the accident did not take place in the public place cannot be countenanced. So, considering the nature of injuries sustained by the claimant, this Court is inclined to award a sum of Rs.25,000/- to the appellant - claimant along with interest at the rate of 6% per annum from the date of claim petition till the date of realization. The second respondent - Insurance Company is directed to deposit the entire award amount with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the appellant - claimant is permitted to withdraw the award amount, together with interest and costs.

6. Accordingly, the civil miscellaneous appeal is allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

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To:

1.The Sub Judge,
Motor Accident Claims Tribunal,
Ramanathapuram.



C.M.A.(MD) No.456 of 2010

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

+1 CC to Mr.J.LAWRANCE, Advocate (SR-3188[F] dated 04/02/2021)

+1 CC to Mr.K.BHASKARAN, Advocate (SR-3588[F] dated 05/02/2021)

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VB (01.03.2021) 3P 6C