



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2021

CORAM :

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THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A.(MD)No.534 of 2013

M.Kaliyamoorthy

...Appellant/Petitioner

Vs.

1.R.Rajendran

2.The Branch Manager,

Reliance General Insurance Company,
Thanjavur.

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to modify the judgment and decree, dated 09.06.2011 made in MCOP.No.148 of 2010 on the file of Motor Accidents Claims Tribunal and Chief Judicial Magistrate, Thanjavur at Kumbakonam.

For Appellant :Mr.S.Siva Thilakar

For R1 :No Appearance

For R2 :Mr.V.Sakthivel

JUDGMENT

The appellant is the claimant in MCOP.No.148 of 2010 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Thanjavur at Kumbakonam. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.1,00,000/- for the injuries sustained by him in a road accident on 17.09.2008.

2.The case of the claimant is that on 17.09.2008, when he was riding a double bullock cart with sand load in a slow and caution manner from North to South direction at Natham Kovilacheri village main road, at about 6.00 a.m., one Mini Lorry bearing Registration No.TN-49-AC-3909 was coming in a rash and negligent manner and dashed against his bullock cart. Due to that accident, the petitioner was thrown away from the cart and sustained grievous and multiple injuries.

3. According to the claimant, the rash and negligent driving of the driver of the lorry belonging to the first respondent was the cause of the accident and that since the said lorry was insured with Reliance General Company, the owner and the insurer are jointly and severally liable to pay compensation.



4.The owner of the lorry remained absent before the Tribunal and therefore he was set ex-parte. The second respondent / Reliance General Company, Thanjavur contested the claim petition on all the grounds available to the insured.

5.The learned Chief Judicial Magistrate / Motor Accident Claims Tribunal, Thanjavur after analysing the evidence on record, awarded a compensation of Rs.12,000/- together with interest at the rate of 7.5% per annum to the claimant.

6.Not being satisfied with the quantum of compensation awarded by the Tribunal, the National Insurance Company Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

7.Though several grounds were raised in the appeal, Mr.S.Siva Thilakar, learned counsel appearing for the appellant restricted his arguments only with regard to "loss of income" awarded by the Tribunal. He also contended that the Tribunal did not award any amount for loss of income.

8.Per Contra, Mr.V.Sakthivel, learned counsel appearing for the second respondent / Reliance General Insurance Company contended that the Tribunal after considering all the aspects of the case, awarded a just compensation of Rs.12,200/- and the same need not be disturbed at this stage.

9.A perusal of the records shows that the Tribunal considering the nature of injuries sustained by the claimant had awarded a sum of Rs.12,000/- towards compensation on various heads is just and reasonable. But the Tribunal did not award any amount towards loss of income. Eventhough the claimants has sustained two simple injuries, this Court awarded Rs.10,000/- towards loss of income. Except the above, all the other terms of the award passed by the Tribunal is confirmed.

10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.12,000/- to Rs.22,000/-.

(iii) The second respondent / Reliance General Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.22,000/- less the amount already deposited together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.148 of 2010 on the file of the Motor Accident Claims Tribunal / and Chief Judicial Magistrate, Thanjavur at Kumbakonam within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the appellant / claimant is



entitled to withdraw the same by filing necessary application before the Tribunal.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

vsd

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 Chief Judicial Magistrate
The Motor Accidents Claims Tribunal
Thanjavur at Kumbakonam.

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

+1 CC to M/s.S.SIVA THILAKAR, Advocate (SR-37077[F] dated 02/12/2021)

+1 CC to M/s.V.SAKTHIVEL, Advocate (SR-37087[F] dated 02/12/2021)

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01.12.2021

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KB(11.02.2022) 3P 6C