



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.07.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A.(MD)No.906 of 2013

P.Kanniyappan

..Petitioner/Appellant

Vs.

1.K.M.Palanisamy

2.The New India Assurance Company Limited,
66-C, North Car Street,
Tiruchengode.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the award of compensation dated 20.06.2006 made in M.C.O.P.No.116 of 2005 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court), Karur.

For Appellant	: Mr.K.Govindarajan
For 2 nd Respondent	: Mr.P.Malini
For 1 st Respondent	: No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award passed in M.C.O.P.No.116 of 2005 dated 20.06.2006, on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate Court, Karur.

2.The appellant herein is the petitioner and the respondents herein are the respondents in the claim petition. The appellant has filed a claim petition in M.C.O.P.No.116 of 2005, claiming compensation for the injuries sustained by the petitioner, in an accident that took place on 06.12.2004. The Tribunal has awarded a sum of Rs.9,500/- (Rupees Nine Thousand and Five Hundred only) as compensation. Against which, the appellant has preferred this appeal.

3.A brief substance of the claim petition in M.C.O.P.No.116 of 2005 is as follows:

On 06.12.2004, at about 02.00 p.m., when the claimant was riding his bicycle along the left edge of the Karur - Trichy road, a bus bearing registration No.TN-47-H-0775 was driven by its driver in



a rash and negligent manner and dashed against the claimant from back side and caused him injuries. The claimant was working as a building mason, earning a sum of Rs.3,000/- per month and prayed a sum of Rs.1,00,000/- (Rupees One Lakh only) as compensation.

4.The brief substance of the counter filed by the second respondent therein is as follows:

The claimant has to prove that the bus driver was having valid driving licence. The medical expenses, age, income, occupation of the claimant are all denied. The accident took place, only due to the negligence of the claimant. There is no disability of the claimant.

5.On the side of the petitioner, 2 witnesses were examined and eight documents were marked and on the side of the respondents, two witnesses were examined and two documents were marked. After trial, the Tribunal has awarded a sum of Rs.9,500/- (Rupees Nine Thousand and Five Hundred only) as compensation to be paid by the respondents. Against which, the appellant has preferred this Civil Miscellaneous Appeal.

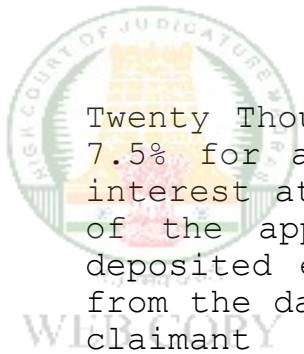
6.On the side of the appellant, it is stated that the Tribunal is wrong in rejecting the medical bills, Ex.P6 to Ex.P8. The Tribunal has failed to consider that the claimant took treatment as 'inpatient' for nine days. The Tribunal failed to consider the evidence of P.W.2, Doctor.

7.On the side of the respondents, it is stated that the claimant had sustained only simple injuries. There is no necessity to take treatment for nine days as 'inpatient'. There was no loss of income.

8.The Tribunal has considered the Ex.P6 to Ex.P8 and a sum of Rs.11,684/- was awarded as compensation for medical expenses. For pain and suffering and for partial loss of income, a sum of Rs.8,316/- is awarded. Totally, the claimant is entitled for a sum of Rs.20,000/- as compensation.

9.A perusal of the records reveals that considering the date of accident I.e., on 06.12.2004, the rate of interest is to be imposed from the date of appeal and not from the date of accident. The Tribunal has awarded interest at 7.5% from the date of filing of the petition. Hence, it is decided that the respondents are liable to pay interest at the rate of 7% for a sum of Rs.9,500/- (Rupees Nine Thousand and Five Hundred only) from the date of filing of the petition. The respondents have to pay interest at the rate of 7.5% for a sum of Rs.11,500/- from the date of appeal till the date of realization.

10.In the result, this Civil Miscellenaous Appeal is partly allowed and the claimant is entitled to a sum of Rs.20,000/- (Rupees



Twenty Thousand only) as compensation with interest at the rate of 7.5% for a sum of Rs.9,500/- from the date of petition and with interest at the rate of 7.5% for a sum of Rs.11,500/- from the date of the appeal till the date of realization. The amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the claimant is permitted to withdraw the award amount with proportionate interest after deducting any amount received by him earlier without filing any formal petition before the Tribunal. Excess amount, if any deposited shall be refunded to the respondents. The claimant is not entitled for interest for the default period, if there is any. No Costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MRN

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, Chief Judicial Magistrate,
Karur.

Copy to

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.MALINI, Advocate (SR-21679[F] dated 08/07/2021)

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-21914[F] dated 09/07/2021)

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