



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA (MD) No.1155 of 2014

WEB COPY

Ramachandran

... Appellant / Petitioner

vs.

1.Santha

2.Branch Manager,

The New India Assurance Company Limited,
248B, Rekha Towers,
Kamarajar Salai,
Madurai - 625 009.

3.The Managing Director,

Tamil Nadu State Transport Corporation Limited,
Trichy.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment dated 13.10.2011 in MCOP.No.269 of 2009 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Tirunelveli.

For Appellant : Mr.T.Selvakumaran

For Respondents : Mr.P.Prabhakaran for R3
Mr.M.S.Sureshkumar for R2
No appearance for R1

J U D G M E N T

The appellant filed this appeal to set aside the Judgment dated 13.10.2011 in MCOP.No.269 of 2009 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Tirunelveli.

2.The case of the appellant/claimant is that on 13.09.2008, at about 06.45 pm, when he was travelling in a bus bearing Registration No.TN 45 N 2841, a van bearing Registration No.TN 33 AZ 2613 belonging to the first respondent and insured with the second respondent, came in a rash and negligent manner and dashed against the bus, as a result of which, the appellant/claimant sustained grievous injuries. Immediately, he was taken to Meenakshi Mission Hospital at Madurai and was admitted as inpatient from 13.09.2008 to 27.09.2008. Hence, he filed



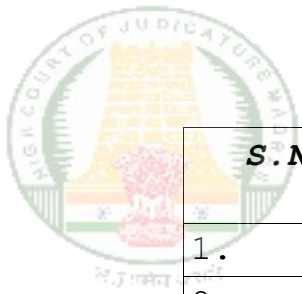
MCOP.No.269 of 2009 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Tirunelveli claiming compensation for the injuries sustained by him.

3. The Motor Accident Claims Tribunal, Principal Subordinate Court, Tirunelveli after analysing the evidence on record, awarded a compensation of Rs.4,06,580/- together with interest at the rate of 9% per annum to the claimant. Seeking enhancement of the quantum of compensation awarded by the Tribunal, the appellant/claimant has filed this appeal.

4. The learned counsel appearing for the appellant/claimant would submit that the accident took place in the year 2008 and the appellant/claimant was admitted in the Hospital as inpatient for 15 days. The appellant/claimant sustained injuries that are grievous in nature. In such circumstances, the Tribunal was wrong in awarding a meagre sum of Rs.1,500/- per percentage of disability. He would also submit that the compensation awarded by the Tribunal under other heads are also very low and the same need to be enhanced.

5. The learned counsel for the second respondent would submit that the Tribunal taking into consideration all the aspects, has awarded a just compensation. He would further submit that the Tribunal has awarded interest at the rate of 9% and the same has to be reduced to 7.5%.

6. A perusal of Ex.P15, Disability Certificate, shows that the appellant/claimant sustained 65% disability. The Tribunal has awarded a sum of Rs.1,500/- per percentage of disability. The accident is of the year 2008 and a perusal of records shows that the appellant/claimant had sustained injuries which are grievous in nature. This Court is of the considered opinion that awarding a sum of Rs.3,000/- per percentage of disability would be reasonable. Therefore, it would amount to 65% disability x Rs.3,000/- = Rs.1,95,000/-. Since the appellant/claimant took treatment as inpatient for 15 days and he had sustained fracture in his right hand, due to which, plate was also fixed, this Court is of the view that a sum of Rs.20,000/- awarded towards pain and sufferings is very low and the same is hereby enhanced to Rs.50,000/-. The appellant/claimant is a Government employee and hence, he is not entitled for loss of income for the period of treatment. Anyhow, the Tribunal granted Rs.87,676/- towards loss of income, taking into consideration the surrender of Earned Leave, which is hereby confirmed. The interest awarded by the Tribunal at 9% is hereby reduced to 7.5%. The award passed by this court under various heads is extracted hereunder:



S.No.	Head	Amount granted by this Court
1.	Loss of income	Rs.87,676/-
2.	Transportation	Rs.5,000/-
3.	Nourishment	Rs.5,000/-
4.	Medical Expenses	Rs.1,89,402/-
5.	Mental Agony suffered by the appellant/claimant	Rs.2,000/-
6.	Pain and Sufferings	Rs.50,000/-
7.	Permanent Disability	Rs.1,95,000/-
Total		Rs.5,34,078/-

7. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.4,06,580/- to Rs.5,34,078/- which would carry interest at the rate of 7.5% per annum.

(iii) The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any.

(iv) The second respondent is directed to deposit the enhanced compensation amount i.e., Rs.5,34,078/- (less the amount already deposited, if any) 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.269 of 2009 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Tirunelveli within a period of six weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 served to the parties is the correct copy, shall be the responsibility of the



advocate/litigant concerned.

TO

The Principal Subordinate Judge,
Motor Accident Claims Tribunal, Tirunelveli.

Copy to:

1.The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court, Madurai.

2.Sub Assistant Registrar(AE)
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.S.SURESHKUMAR, Advocate (SR-35102 dated 19/11/2021)
+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-34803 dated 17/11/2021)
+1 CC to M/s.T.SELVAKUMARAN, Advocate (SR-34980 dated 18/11/2021)

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