



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD)No.1188 of 2014

and

C.M.P (MD)No.9058 of 2017

Manikandan

...Appellant/Claimant

Vs.

1. The Chairman,
Vins Christian Women's College of Engineering,
No.314-E2, K.P.Road,
Nagercoil - 629 001.
Kanyakumari District.

2. The Branch Manager,
The United India Insurance Co.Ltd.,
Xavier Building, 2nd Floor,
PWD Road, Nagercoil,
Kanyakumari District.

...Respondents/Respondents

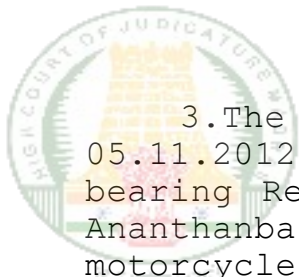
PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to call for the records pertaining to the judgment and decree dated 24.02.2014 in M.C.O.P.No.1 of 2013 on the file of Motor Accidents Claims Tribunal, II Additional District Judge, Tirunelveli and to set aside the same, consequent to enhance the quantum of compensation from a sum of Rs.5,00,000/- to a sum of Rs.8,00,000/-.

For Appellant	: Mr.V.Sasikumar
For R1	: No Appearance
For R2	: Mr.J.S.Murali

O R D E R

This Civil Miscellaneous Appeal has been filed by the appellant/claimant to enhance the award amount passed in M.C.O.P.No.1 of 2013, dated 24.02.2014, on the file of the Motor Accident Claims Tribunal/II Additional District Judge, Tirunelveli.

2.It is a case of accident. The claimant suffered injury. Hence, the Tribunal has awarded a sum of Rs.5,00,000/- as compensation. Being dissatisfied with the same, the claimant is on appeal before this Court.



3.The case of the claimant before the Tribunal is that on 05.11.2012 at about 5.45 p.m., one Thiagarajan rode a scooter bearing Registration No.TN-69-E-5893 from Konam to Gurukulamsalai Ananthanbalm main road. The appellant was a pillion rider. When the motorcycle was reaching in front of the house of Chandrasekaran, a College Bus bearing Registration No.TN-74-P-9409 driven by its driver in a rash and negligent manner hit against the motorcycle and due to accident, the appellant has sustained injuries and filed the claim petition in M.C.O.P.No.1 of 2013 on the file of the Motor Accident Claims Tribunal/II Additional District Judge, Tirunelveli, seeking compensation.

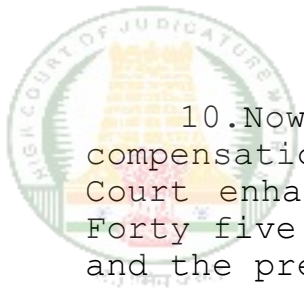
4.Before the Tribunal, on the side of the claimant six witnesses were examined as P.W.1 to P.W.6 and fifteen documents were marked as Exs.P.1 to P.15. On the side of the respondents herein, no one was examined and no document was marked.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimant and the respondents and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the bus and directed the respondents to pay a sum of Rs.5,00,000/- as compensation. Against which, the appellant/claimant has filed this present appeal to enhance the award of compensation passed by the Tribunal.

6.Heard Mr.V.Sasikumar, learned counsel appearing for the appellant/claimant and Mr.J.S.Murali, learned counsel appearing for the second respondent/insurance company. Perused the material documents available on record.

8.The second respondent/insurance company has not filed any appeal against the award passed by the Tribunal.

9.Perusal of records shows that the claimant undertook treatment as inpatient from 05.11.2012 to 02.12.2012 for injuries sustained by him. The Tribunal has fixed permanent disability as 55% and granted Rs.2,000/- for 1% of his partial permanent disability. Since the accident occurred in the year 2012, the amount is reasonable. It is seen from the records that the claimant is a driver, because of treatment, he lost his one month salary. But the Tribunal has not awarded the monthly salary. Before the Tribunal, the Salary Certificate has been marked as Ex.P.5 and as per Salary Certificate, his monthly salary was Rs.15,000/-. Hence, his monthly income of Rs.15,000/- is awarded. It is seen from the records that the claimant had sustained fractures in his right thigh and two fingers namely, index finger and ring finger. But the Tribunal has awarded only Rs.20,000/- towards pain and suffering. Considering the multiple fractures as well as the injuries sustained by the petitioner, this Court is of the view that the claimant is entitled to Rs.50,000/- towards pain and



10.Now, the appellant is claiming enhancement of award of compensation and it is also properly explained. Therefore, this Court enhances the award to a further sum of Rs.45,000/- (Rupees Forty five thousand only) towards monthly income and pain suffering and the present Civil Miscellaneous Appeal can be allowed.

WEB COPY

11.Finally, this Civil Miscellaneous Appeal is partly allowed. The award amount of Rs.5,00,000/- (Rupees Five lakhs only) awarded by the Motor Accident Claims Tribunal/II Additional District Judge, Tirunelveli in M.C.O.P.No.1 of 2013 , dated 24.02.2014, is hereby modified. In addition to that, a sum of Rs.45,000/- is hereby awarded towards enhancement of compensation [Rs.5,00,000/- + Rs.45,000/- = Rs.5,45,000/-] with interest at the rate of 8% per annum from the date of petition, till the date of realization. All the other terms of the award by the Tribunal is confirmed. No Costs. Consequently connected miscellaneous petition is closed. The second respondent/Insurance Co. Ltd., is directed to deposit the modified award amount within a period of six weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

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 Motor Accidents Claims Tribunal/
II Additional District Judge, Tirunelveli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.J.S.MURALI, Advocate (SR-34352[F] dated 12/11/2021)

+1 CC to M/s.V.SASIKUMAR, Advocate (SR-34554[F] dated 16/11/2021)

Order made in

C.M.A. (MD)No.1188 of 2014 and

C.M.P (MD)No.9058 of 2017

12.11.2021

USK (04.01.2022) 3P 6C

<https://hcservices.ecourts.gov.in/hcservices/>