



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD)No.564 of 2014

V.Shanmuganathi

... Appellant/Petitioner

Vs.

1.S.Ragupathi

2.The Divisional Manager,
National Insurance Co., Ltd.,
No.10, Door No.101-106,
Cannaught Place,
New Delhi.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the judgment and decree, dated 12.07.2013 made in M.C.O.P.No.36 of 2012 on the file of Motor Accidents Claims Tribunal/ Chief Judicial Magistrate, Karur, and to enhance the award amount.

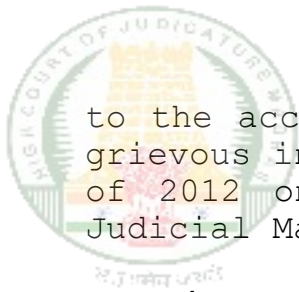
For Appellant	:Mr.T.Selvakumaran
For R1	:No Appearance
For R2	:Ms.P.Malini

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/claimant to enhance the award amount passed in M.C.O.P.No.36 of 2012, dated 12.07.2013, on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Karur.

2. It is a case of accident. The claimant suffered grievous injury. Hence, the Tribunal has awarded a sum of Rs.1,78,717/- as compensation. Being dissatisfied with the same, the appellant/claimant filed this appeal to enhance the compensation amount granted in M.C.O.P.No.36 of 2012.

3. The case of the claimant before the Tribunal is that on 18.01.2012 at about 10.45 am., he drove a two wheeler bearing Registration No.TN-47-X-8291 along with one Vijaya as a pillion rider, who is the claimant in M.C.O.P.35/2012. When the two wheeler reaching the Thirumanilaiyur Roundana on the Karur-Trichy Road, an Amni Van bearing Registration No.TN-47-W-7781 driven by its driver in a rash and negligent manner hit against the two wheeler and due



to the accident, the appellant/claimant has sustained fractures and grievous injuries. Hence, he filed a claim petition in M.C.O.P.No.36 of 2012 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Karur seeking compensation.

4. Before the Tribunal, on the side of the claimant six witnesses were examined as P.W.1 to P.W.4 and 24 documents were marked as Ex.P.1 to Ex.P.24. On the side of the Insurance Company, D.W.1 and D.W.2 were examined and six documents were marked as Ex.D1 to Ex.D6.

5. The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the learned 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 Amni bus and directed the respondents to pay a sum of Rs.1,78,717/- as compensation. Against which, the appellant/claimant has filed this present appeal to enhance the award of compensation passed by the Tribunal.

6. Though notice served to R1 and name also printed in the cause list, nobody appearing for R1. Hence, his appearance is dispensed with.

7. Heard Mr.T.Selvakumarn, learned counsel appearing for the appellant/claimant and Mrs.P.Malini, learned counsel appearing for the second respondent/insurance company. This Court has perused the materials placed before this Court.

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 18.01.2012 to 30.01.2012 for injuries sustained by him. He sustained fracture on his right hip bone and was not able to work further. The Tribunal has fixed permanent disability as 30% and granted Rs.2,000/- for 1% of his permanent disability ($\text{Rs.2000} \times 30 = \text{Rs.60,000/-}$). Considering the fracture and injuries sustained by him, this Court feels that the claimant is entitled to get Rs.3,000/- for 1% of his permanent disability ($\text{Rs.3000} \times 30 = \text{Rs.90,000/-}$). It is seen from the records that the claimant had sustained fractures in his right hip bone. But the Tribunal has awarded only Rs.3,000/- towards pain and suffering. Considering the multiple fractures in his right side hip bone as well as the injuries sustained by the petitioner, this Court is of the view that the claimant is entitled to Rs.20,000/- towards pain and suffering and for loss of amenities, he is entitled for Rs.10,000/-. Other heads remain intact.



10. Now, the appellant is claiming enhancement of award of compensation and it is also properly explained. Therefore, this Court enhances the award amount towards permanent disability (Rs.30,000/-), pain and suffering (Rs.17,000/-) and loss of amenities (Rs.10,000/-), totally for a sum of Rs.57,000/- (Rupees Fifty seven thousand only).

11. In the result, this Civil Miscellaneous Appeal is partly allowed. No Costs. The award amount of Rs.1,78,717/- (Rupees One lakh seventy eight thousand seven hundred and seventeen only) passed by the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Karur in M.C.O.P.No.36 of 2012, dated 12.07.2013, is hereby modified as follows:

"1. In addition to the award already passed, a sum of Rs.57,000/- is hereby awarded towards enhancement of compensation [Rs.1,78,717/- + Rs.57,000/- = Rs.2,35,717/-] with interest at the rate of 7.5% per annum from the date of petition, till the date of realization.

2. The second respondent Insurance company is directed to deposit the enhanced award amount of Rs.57,000/-, less the amount already deposited, with interest of 7.5% from the date of petition till the date of realization within a period of six weeks from the date of receipt of a copy of this judgment.

3. On such deposit, the appellant/claimant is permitted to withdraw the amount now awarded with accrued interest and costs as apportioned by the Tribunal, by filing proper application before the Tribunal.

4. All the other terms of the award by the Tribunal is confirmed."

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PJL

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.

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



To

1.The Chief Judicial Magistrate,
The Motor Accidents Claims Tribunal,
Karur.

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

+1 CC to M/s.P.MALINI, Advocate (SR-40013[F] dated 22/12/2021)

+1 CC to M/s.T.SELVAKUMARAN, Advocate (SR-40270[F] dated 23/12/2021)

C.M.A. (MD) No.564 of 2014
22.12.2021

NA (CO)

GC (17.02.2022) 4P 6C