



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	22.01.2021
Date of Judgment	23.02.2021

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CORAM:

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.1130 of 2016

Bajil : Appellant/Petitioner

Vs.

1.A.Lenin Kamaraj

2.The Oriental Insurance Company Ltd.,
CBO 11, 73/B1, Laxmi Complex,
Salai Road,
Trichy-18.

: Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 16.04.2014 made in MCOP No.3225 of 2013 on the file of Motor Accident Claims Tribunal (Special Sub Judge), Trichy.

For Appellant : Mr.R.Subramanian

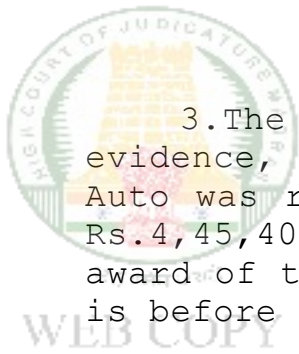
For 1st Respondent : Mr.A.Balakrishnan

For 2nd Respondent : Mr.K.Bhaskaran

JUDGMENT

Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal (Special Sub Judge), Trichy, in MCOP No.3225 of 2013, dated 16.04.2014.

2.The brief facts of the case are that on 23.11.2009 at about 2.00 pm, when the claimant was travelling in his cycle, the Mini Door Auto TN-48-F-600-9 driven by its driver in a rash and negligent manner hit against the claimant and due to it, he fell down and sustained injuries all over the body and immediately, he was taken to CSI Mission General Hospital, Trichy, where he was taking treatment as inpatient for some time. The claimant, who suffered injury sought compensation of Rs.10,00,000/- on the ground that the driver of the offending vehicle namely Mini Door Auto was responsible for the accident.



3.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the driver of the Mini Door Auto was responsible for the accident and awarded compensation of Rs.4,45,400/- together with interest @ 7.5% p.a. Challenging the award of the tribunal, the Oriental Insurance Company as appellant is before this court.

4.Heard both sides and perused the materials available on record.

5.The learned counsel appearing for the appellant argued that at the time of accident, the claimant was working as a skilled worker in a Steel Furniture manufacturing shop and he was earning Rs.7,500/-, per month, but the tribunal has fixed Rs.3,000/- per month to determine the loss of income of the claimant is not correct. Further, the tribunal has not added any amount towards future prospects and the tribunal has failed to award compensation under the head of future medical treatment and the multiplier adopted by the tribunal is not correct and hence, the compensation awarded by the tribunal has to be enhanced, by allowing the appeal.

6.On the other hand, the learned counsel appearing for the 2nd respondent Insurance Company that even though the injured stated that he was working in a Steel Furniture manufacturing shop and earned Rs.7,500/- per month, he only filed the salary certificate. But he has not examined the Employer and produced relevant records to show that he was working in the Steel Manufacturing shop and earned Rs.7,500/- per month and hence, the loss of income arrived by the tribunal is correct and prays for dismissal of the civil miscellaneous appeal.

7.In this case, the claimant during his evidence has stated that he was working in a Steel Manufacturing shop and thereby earned Rs.7,500/- per month and to prove the same, he filed Ex.P8 Salary Certificate. But he has not chosen to examine the employer to prove the same. Further, the claimant has not produced any document to prove that at the time of accident, he was working in the Steel Manufacturing shop and earned Rs.7,500/- per month as salary. Considering the above fact, this court fixed the monthly income of the injured at Rs.5,500/-. The deceased has suffered 50% functional disability. Accordingly, the loss of dependency of injured is calculated at Rs.5,94,000/- (Rs.5,500/- x 18 x 12 x 50/100). In so far as the conventional heads, the claimant is entitled to Rs.72,440/- towards medical bills (as per Ex.P7), Rs.16,500/- towards loss of earning during treatment, Rs.5,000/- towards transportation, Rs.5,000/- towards nourishment and Rs.5,000/- towards attendant charges. In total, the claimant is entitled to Rs.6,97,940/- together with interest @ 7.5% pa.



8.In the result, this Civil Miscellaneous Appeal is partly allowed. The award of the tribunal is enhanced to 6,97,940/- together with interest @ 7.5% p.a from the date of petition, till the date of realization. The 2nd respondent Insurance company is directed to deposit the modified amount together with accrued interest and costs, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this order. On such compliance, the claimant is entitled to withdraw the entire amount without filing any formal petition before the tribunal. No costs.

Sd/-

Assistant Registrar ()

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Special Sub Judge,
Motor Accident Claims Tribunal,
Trichy.

2.The Record Keeper-2 copies
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.BHASKARAN, Advocate (SR-6893[F] dated 24/02/2021)

+1 CC to Mr.R.SUBRAMANIAN, Advocate (SR-6992[F] dated 24/02/2021)

+1 CC to Mr.A.BALAKRISHNAN, Advocate (SR-7134[F] dated 25/02/2021)

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