



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD)No.769 of 2018

Abdul Ajees

...Appellant/Petitioner

Vs.

1.G.D.Balakrishnan

2.The Branch Manager,
ICICI Lamboard General Insurance Company Ltd.,
No.6, United Arcade,
3rd Floor, Karur Bye Pass,
Annamalai Nagar,
Trichy.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to modify the judgment and decree, dated 15.06.2017 made in MCOP.No.53 of 2015 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Thanjavur at Kumbakonam.

For Appellant :Mr.S.Sivathilakar

For R1 :No Appearance

For R2 :Mr.K.K.Ramakrishnan

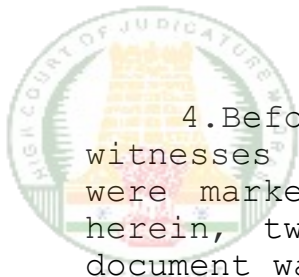
JUDGMENT

The appellant is the claimant in M.C.O.P.No.53 of 2015 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Thanjavur at Kumbakonam. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.3,00,000/- for the injuries sustained by him in a road accident on 14.12.2010.

2. The case of the claimant, in nutshell, is as follows:

On 14.12.2010 at about 10.00 a.m. when the claimant was riding his bicycle from northern direction to southern direction in main road, Thippirajapuram, at that time, the Tempo traveller van, bearing Registration No.TN-50-A-2218, which was coming from same direction driven by its driver in a rash and negligent manner hit against the back side of the bicycle. Due to the said accident, the petitioner has sustained grievous injuries.

3.The claimant has filed the claim petition in M.C.O.P.No.53 of 2015 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Thanjavur at Kumbakonam, seeking compensation of Rs.3,00,000/-.



4.Before the Tribunal, on the side of the claimant two witnesses were examined as P.W.1 and P.W.2 and eight documents were marked as Exs.P.1 to P.8. On the side of the respondents herein, two witnesses were examined as R.W.1 and R.W.2. and one document was marked as Ex.R.1.

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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 first respondent and directed the second respondent to pay a sum of Rs.1,41,000/- as compensation. Aggrieved over the orders passed by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

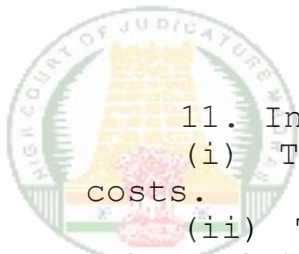
6.Heard Mr.S.Siva Thilakar, learned counsel appearing for the appellant/claimant and Mr.K.K.Ramakrishnan, learned counsel appearing for the second respondent/insurance company. Perused the material documents available on record.

7.The learned counsel for the appellant contended that the tribunal has failed to award proper compensation with regard to pain and suffering, nutrition and loss of income. Hence, the award passed by the Motor Accidents Claims Tribunal is liable to be modified.

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 14.12.2010 to 23.12.2010 for injuries sustained by him. The Tribunal has fixed permanent disability as 30% and granted Rs.3,000/- for 1 % of his partial permanent disability. Since the accident had occurred in the year 2010, the amount is reasonable. It is seen from the records that because of the injuries sustained, the claimant cannot work as previous stage and he lost his salary, but the Tribunal has awarded only Rs.9,000/- towards loss of income. Hence, this Court awarded Rs.30,000/- towards loss of income. It is seen from the records that the claimant had sustained injury in the eye and forehead, but the Tribunal has awarded only Rs.20,000/- towards pain and sufferings. Hence, this Court awarded Rs.30,000/- towards pain and sufferings and also awarded Rs.10,000/- for nutrition and awarded Rs.5,000/- for attendant charges.

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.39,000/- (Rupees Thirty nine thousand only) and the present Civil Miscellaneous Appeal can be allowed.



11. In the result,

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

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.1,41,000/- to Rs.1,80,000/-.

(iii) The second respondent/ Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.1,80,000/- (Rupees One lakh eighty thousand only), less the amount already deposited, 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.53 of 2015 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Thanjavur at Kumbakonam, within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellant / claimant is entitled to withdraw the same by filing necessary application before the Tribunal.

Sd/-

Assistant Registrar (CS-III)

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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 Chief Judicial Magistrate,
The Motor Accidents Claims Tribunal and
Thanjavur at Kumbakonam.

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

+1 CC to M/s.K.K.RAMAKRISHNAN, Advocate (SR-36866[F]
dated 01/12/2021)

+1 CC to M/s.S.SIVA THILAKAR, Advocate (SR-36696[F]
dated 01/12/2021)

Judgment made in
C.M.A. (MD) No.769 of 2018
30.11.2021

KS (CO)

GC (06.01.2022) 3P 6C

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