



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.1475 of 2021

V.Muthuraman ... Appellant/Petitioner

Vs.

Muthukaruppan (Died)
1.M/s New India Assurance Co. Ltd.,
No.482, 483, 3rd Floor
SNV Chambers
Gross Cut Road
Gandhipuram, Coimbatore - 641 042.

2.Unnamalai
3.Arun Kumar
4.Sornam
5.S.Alamelu

... Respondents/Respondents

(Respondents 2 to 5 are brought on LR's
of deceased 1st respondent)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Order and Decree made in M.C.O.P.No.548 of 2013 dated 06.11.2019 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Coimbatore.

For Appellant : Mr.A.Veeraswamy

For Respondents : Mr.S.Dhakshnamoorthy
for R1
for RR2 to 5- Served-No appearance

JUDGMENT

[Judgment of the Court was delivered by K.KALYANASUNDARAM,J.]

This appeal arises out of the Order and Decree made in M.C.O.P.No.548 of 2013 dated 06.11.2019 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Coimbatore.



2.The appellant suffered injuries in the accident that had taken place on 29.01.2011. He was an occupant of a car bearing Registration No.TN 38 BE 0457 and proceeding from Coimbatore to Vedhanpatti in Pudukottai District. At about 3.30 pm., when they were nearing C.K.Valasu, Dharapuram main road, the car hit against the electric post and thereby the claimant sustained injuries. He sought compensation of Rs.One Crore, however, the Tribunal has awarded Rs.60,21,000/- together with interest at 7.5% per annum. Seeking enhancement of compensation, the present appeal has been filed.

3.The learned counsel for the appellant would argue that the claimant has sustained 100% disability. Though the claimant has proved his income as Rs.50,000/- by producing the documents which were marked as Exs.P.3, 9 and 10. However, the Tribunal has taken the income only as Rs.25,000/- and it has to be enhanced.

4.In this regard, we have heard the learned counsel appearing for the 1st respondent/Insurance Company.

5.Perusal of the records show that the accident had taken place in the year 2011 and the Income Tax returns produced by the appellant before the Tribunal, were marked as Exs.P.9 and 10. The rental income of the claimant is also included in the Income Tax returns. In addition to that he was also doing Finance business and he is one of the partner in the Finance Company, viz., Vijayalakshmi Corporation. The claimant produced the Income Tax returns filed by the said firm. According to the claimant, he is a photographer and he was receiving the income in Euro dollars. In paragraph No.11 of the Judgment of the Tribunal has taken the income from Photography as Rs.5,000/- based on Ex.P.20 and 21. It is further seen from the records that the appellant has not proved the income as Rs.50,000/- per month. Taking note of the fact that he suffered injuries, the Tribunal has awarded total compensation of Rs.60,21,000/-. In our considered opinion that the amount awarded by the Tribunal is just and reasonable and the appellant is not entitled for enhancement in this appeal.

6.In the result, this Civil Miscellaneous Appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
and Chief Judicial Magistrate,
Coimbatore.

2. The Section Officer,
V.R.Section,
Madras High Court, Chennai.

+1cc to M/s.Narayanaswamy, Advocate, S.R.No.10063

C.M.A.No.1475 of 2021

AJB (CO)
SU (21/04/2022)