



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2022

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD)No.1279 of 2016

Arjunan

...Appellant/Petitioner

Vs.

1.Nagarajan

2.The Divisional Manager,
National Insurance Company,
1st Floor, S.R.D.Building,
No.33, Bharathidasan Salai,
Piramnadu Salai,
Contonment, Trichy.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to modify the judgment and decree, dated 20.11.2015 made in MCOP.No.133 of 2015 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Thanjavur at Kumbakonam.

For Appellant :Mr.S.Sivathilakar
For R2 :Ms.Mariya Vinola
for Mr.D.Rajkumar

JUDGMENT

The appellant is the claimant in M.C.O.P.No.133 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.4,00,000/- for the injuries sustained by him in a road accident on 27.03.2014.

2.The case of the claimant is that on 27.03.2014, while he was riding a double bullock cart in a slow and cautious manner from Kumbakonam to Chennai Road towards south to north, at about 3.30 p.m. and when he came near Chinna Karupur Kulam, a van bearing Registration No.TN-68-J-4078 came in a opposite direction driven by its driver in a rash and negligent manner and dashed against his bullock cart. Due to that accident, the petitioner sustained grievous and multiple injuries and he admitted in the Thanjavur Medical College Hospital and he took treatment as inpatient from 27.03.2014 to 26.06.2014.

3.The claimant has filed the claim petition in M.C.O.P.No.133 of 2015 on the file of the Motor Accidents Claims Tribunal/Chief

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



Judicial Magistrate, Thanjavur at Kumbakonam, seeking compensation of Rs.4,00,000/-.

4.Before the Tribunal, on the side of the claimant two witnesses were examined as P.W.1 to P.W.3 and nine documents were marked as Exs.P.1 to P.9. 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 first respondent and directed the second respondent to pay a sum of Rs.1,45,400/- 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.

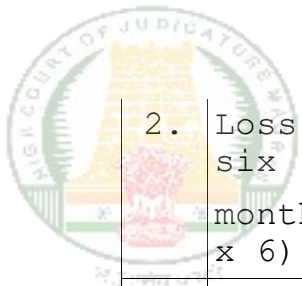
6.Heard both sides and perused the material documents available on record.

7.The learned counsel for the appellant contended that due to injury, the claimant undertook treatment as inpatient from 27.03.2014 to 26.06.2014 for injuries sustained by him in Thanjavur Medical College Hospital. But the Tribunal has fixed permanent disability as 32% and granted Rs.2,000/- for 1 % of his disability, which is very low. He further contended that the Tribunal has failed to award proper compensation with regard to loss of income. Therefore he prayed for enhancement of compensation.

8.A perusal of records, it shows that the claimant undertook treatment as inpatient from 27.03.2014 to 26.06.2014 for injuries sustained by him. But the Tribunal has fixed permanent disability as 32% and granted Rs.2,000/- for 1 % of his permanent disability, which is very low. Hence, this Court fixed Rs.3,000/- for 1% disability and awarded Rs.96,000/- as permanent disability. Except the above, all other terms of the award passed by the Tribunal is confirmed.

9.Accordingly, the claimant is entitled for compensation as follows:

S No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	Permanent disability	Rs. 64,000/-	Rs. 96,000/-	modified



2.	Loss of income for six months (Rs.3,000/ x 6)	Rs. 18,000/-	Rs. 18,000/-	Confirmed
3.	Pain and sufferings	Rs. 30,000/-	Rs. 30,000/-	Confirmed
4.	Transportation	Rs. 5,000/-	Rs. 5,000/-	Confirmed
5.	Attendant charges	Rs. 18,400/-	Rs. 18,400/-	Confirmed
6.	Loss of happiness and future expenses	Rs. 10,000/-	Rs. 10,000/-	Confirmed
Total		Rs. 1,45,000/-	Rs. 1,77,400/-	

with interest at 7.5% p.a., as awarded by the Tribunal, from the date of claim petition till the date of realization.

10.In the result,

(i)The Civil Miscellaneous Appeal is partly allowed.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.1,45,000/- to Rs.1,77,400/-.

(iii)The second respondent /National Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.1,77,400/- (Rupees One lakh seventy seven thousand four hundred 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 M.C.O.P.No.133 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.

(iv) On such deposit, the claimant is entitled to withdraw the award amount with proportionate interests and costs. No costs.

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 and
Chief Judicial Magistrate,
Thanjavur at Kumbakonam.

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

+1 CC to M/s.S.SIVA THILAKAR, Advocate (SR-129[F] dated
04/01/2022)

+1 CC to M/s.D.RAJKUMAR, Advocate (SR-299[F] dated 05/01/2022)

C.M.A.(MD)No.1279 of 2016
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KMV(CO)
KB(16.02.2022) 4P 6C