

M.Sakthi Vs. Pee Gee College of Arts Sciences

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Court : Chennai

Decided On : Jul-03-2013

Judge : C.S.Karnan

Appellant : M.Sakthi

Respondent : Pee Gee College of Arts Sciences

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED: 03.07.2013
CORAM THE HON'BLE MR.JUSTICE C.S.KARNAN C.M.A.No.231 of 2009
M.Sakthi .Appellant vs 1.The Chairman, Pee Gee College of Arts & Sciences,
Krishnagiri Main Road, Periyanaahalli, Palacode Taluk, Dharmapuri District.

2.The National Insurance Company Ltd., No.74, Paramathi Road,
Namakkal.Respondents (R1 set exparte in Lower Court, hence dispense
with).Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act,
1988, against the judgment and decree dated 13.06.2008 made in
M.C.O.P.No.254 of 2005 on the file of Motor Accident Claims Tribunal and
Additional District Court, Dharmapuri.

For Appellant : Mr.M.Selvam For Respondents: Mr.S.Vadivel (for R2) R1 - Exparte

JUDGMENT

On 31.01.2004, at about 02.30 p.m, when the claimant was walking on the
Mattalampatti mud road, the bus bearing Registration No.TN-29-F-3953, coming in

the same direction and driven at a high speed, dashed against him.

As a result, he had sustained injuries.

Hence, the claim has been filed against the owner and insurer of the bus.

2.The National Insurance Company Limited had filed a counter and resisted the claim.

It was submitted that the accident had not been committed by the driver of the bus and was caused only due to the negligence of the petitioner.

Further, she had sustained simple injuries.

The complaint had been lodged after a delay of 5 days.

The averments in the claim regarding age, income, occupation and nature of injuries was not admitted.

3.On considering the averments of both parties, the Tribunal had framed two issues namely (1) Whether the accident had been caused by the negligence of the driver of the bus?.

and (2) Whether the claimant is entitled to receive compensation as claimed by her?.

On the side of the claimant, two witnesses were examined and 10 documents were marked namely F.I.R.; Wound Certificate; Insurance Policy; Judgment copy; Motor Vehicle Inspector's report; Medical bills; Medical records; X-ray.

On the side of the respondents, no witness, no documents.

4.PW1 had adduced evidence that on 31.01.2004 at about 2.30 p.m., when she was walking on the Mathalampatti mud road, the bus bearing Registration No.TN-29-F-3953, driven at a high speed had dashed against her.

She deposed that she had sustained bone fracture injuries on her left shoulder, left hand joint, left leg and forehead.

She stated that she had undergone medical treatment for 15 days.

PW2 Doctor had adduced evidence on the same lines of PW1 regarding nature of injuries and mode of treatment.

5.On recording the evidence of the witnesses, the trial Court has granted a sum of Rs.11,200/- as compensation with interest at the rate of 7.5% per annum.

6.Not being satisfied with the quantum of compensation, the claimant has filed the above appeal.

The very competent counsel Mr.M.Selvam submits that the claimant had sustained multiple bone fracture injuries and she had undergone treatment under various medical practitioners for about 15 days.

The driver of the bus had been punished by the criminal court and the said bus had been covered under an Insurance Policy.

7.After establishing the said case against the Insurance company, the trial Court had not granted an adequate compensation to the claimant.

8.The highly competent counsel Mr.S.Vadivel submits that the F.I.R.had been lodged after a delay of 5 days and as such the claimant had filed the case as an after thought to get wrongful gain.

The Doctor had not issued disability certificate.

The claimant had sustained only simple injuries.

Further, the accident had occurred due to her negligence but the trial Court had granted sufficient compensation.

9.On considering the factual position of the case and arguments advanced by the learned counsel on either side and on perusing the impugned award of the Tribunal, this Court does not find any discrepancy in the conclusions arrived at regarding negligence and liability.

However, the quantum of compensation awarded is on the lower side considering that the claimant had sustained injuries as per medical evidence.

Hence, this Court reassesses the compensation as follows: Rs.10,000/- is awarded for pain and suffering; Rs.10,000/- for disability; Rs.2,000/- for transport; Rs.2,000/- for nutrition; Rs.2,000/- for attender charges; Rs.2,000/- for loss of earning during medical treatment period; Rs.1,200/- for medical expenses; Rs.2,000/- towards loss of amenities.

In total, this Court awards Rs.31,200/- as compensation.

After subtracting initial compensation of a sum of Rs.11,200/-, this Court awards Rs.20,000/- as additional compensation.

This additional amount will carry interest at the rate of 7.5% per annum from the date of filing the claim till date of payment of compensation.

10.This Court directs the National Insurance Company Limited herein, to execute this Court's additional award, with interest, within a period of four weeks from the date of receipt of this order, by way of depositing the award before the trial Court.

11.After such a deposit having been made, it is open to the claimant to withdraw the entire additional compensation amount, as per this Courts findings, with added interest thereon, lying in the credit of M.C.O.P.No.254 of 2005 on the file of the Motor Accident Claims Tribunal and Additional District Court, Dharmapuri, after filing a memo, along with a copy of this order.

12.In the result, the above Civil Miscellaneous Appeal is partly allowed.

Consequently, the judgment and decree order passed in M.C.O.P.No.254 of 2005, dated 13.06.2008, on the file of the Motor Accident Claims Tribunal and Additional District Court, Dharmapuri, is modified.

No costs.

03.07.2013 vs Index : Yes / No Internet: Yes / No To 1.The Motor Accident Claims Tribunal and Additional District Court, Dharmapuri.

2.The Section Officer, VR Section, High Court, Madras.

C.S.KARNAN.J vs C.M.A.No.231 of 2009 03.07.2013

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