



BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
DHARAPURAM. (SUBORDINATE COURT, DHARAPURAM.)

PRESENT:- Shri. M.DHARMAPRABU, M.A.,M.L.,

Motor Accident Claims Tribunal Authority / Subordinate Judge

Thursday, the 21th day of March, 2024

M.C.O.P. No. 83 of 2019

Date of Filing :21.02.2019

Kalimuthu (Aged about 34 years),
S/o. Palanisamy,
Thalakkurai, Nallimadam post,
Sankarandampalayam Village,
Dharapuram Taluk,
Tiruppur District,
Tamilnadu, Pin Code : 638 706.

.... Petitioner

Vs.

1. Manikandan, (Aged about 39 years)
S/o. Palanisamy,
3B, Pudu Kulathupalayam,
Inam Karur, Karur District.

2. Mohan, (Full Aged)
S/o. Arunachalam,
9/225, Sanarpalayam,
Koothampoondi, Pullagoundampatti post,
Tiruchangode, Namakkal,
Tamilnadu – 637 202.

3. Chellaiyan, (Full Aged)
S/o. Ponnuvel,
52C, Gayathri Nagar, Erode Road,
Karur – 639 002.



4. The Oriental Insurance Company Limited,
Having its office at Divisional Office,
PLA, Building, 1st Floor, No.12/A,
Kovai Road, Karur,
Tamilnadu – 639 002.

.... Respondents

The Petition having been heard in the presence of
Shri. S.T.Sekar, Counsel for the petitioner, and Shri. K. Jaganathan, Counsel
for the 4th Respondent and the Respondents 1 to 3 remained *exparte* and
having stood over for my consideration till this day, I delivered the
following ...

ORDER

The claim Petition is filed under Section 166 of the Motor Vehicles Act
seeking for a compensation of Rs. 15,00,000/- for the injuries sustained by the
petitioner in the Motor Accident.

2. The gist of petition is as follows:

The Petitioner was aged about 34 years and he was working as a
Cashier in Sri Veerakumar Indian Oil Petrol Bunk, Govindapuram there by
earning Rs. 15,000/- per month. On 30.05.2018 at about 07.00 p.m., the
petitioner was carefully travelling as pillion-rider in Yamaha FZ bearing
registration number TN 47 AJ 7763 from East to West on Trichy to Karur
Roa near Puliyur Teachers colony. At that time, the 1st respondent was drove
the Scorpio Car bearing Registration No. TN 47 T 4726 from the opposite



direction from West to East in a rash and negligent manner and hit against the Petitioner due to which the petitioner was thrown away and sustained injuries on his right neck of femur, right shaft, right hip and multiple injuries all over his body. He was taken to the Raj Hospital, Karur and then taken to AS Win Sri Sai Hospital Dharapuram and for further treatment, he was taken to Ganga Hospital, Coimbatore. A Criminal case was registered in Crime No. 282 of 2018 by Pasupathipalayam Police Station under Sections 279 and 337 of the IPC. The 2nd Respondent is the previous owner and the 3rd Respondent is the present owner of the two-wheeler which caused the accident and the 4th Respondent is the Insurer. Hence, the petition.

3. Gist of the Counter filed by the 4th Respondent is as follows:

Denied the allegations contained in the petition. The Manner of the accident narrated by the petitioner is not correct. Age, income and occupation of the petitioner are denied. There is another car TN 02 4828 which was also involved in the accident and the said vehicle was not added as parties and hence the case is bad for non-joinder of necessary parties. The rider of the two-wheeler and the petitione were travelling with helmet at the time of accident. When the 1st Respondent was carfully driving the car slowly, the two-wheeler in which the petitioner was travelling as pillion-rider rode the two-wheeler in a rash and negligent manner and dashed against the



Car. As the accident was due to the rash and negligence of the petitioner's rider, he is not entitled to compensation from this Respondent. The claim of the petitioner is highly excessive. Hence, the petition is liable to be dismissed.

4. The points taken for consideration are as follows:

1. Whether the accident was due to rash and negligent of 1st respondent ?
2. Whether the petitioner is entitled to compensation? If so, what is the quantum?
3. Which respondent is liable to pay compensation ?

5. On the side of the petitioner, the Petitioner was examined as PW1 and Ex.P1 to P17 were marked. On the side of the 4th respondent, an application under section 170 of the Motor Accident Vehicles Act was filed and it was allowed by the court. However, the 4th Respondent did not adduce any oral and documentary evidence.

6. Answer to Point No. 1:

Heard the learned counsel for the petitioner and the 4th respondent. Carefully perused the records. The petitioner filed proof affidavit reiterating the averments of the petition. The Ex.P1 is the copy of the FIR registered against the 1st respondent. The Ex.P5 is the copy of the Rough Sketch and Ex.P6 is the copy of Observation Mahazar. The Ex.P7 is the copy of the final report filed against the Respondent under Sections 279 and 338 of the IPC.



The Ex.P8 is the communication under the RTI Act in which it is stated that the 1st Respondent was convicted by the learned Judicial Magistrate No. 1, Karur. The Respondents 1 to 3 remained *exparte*. There is no contra evidence as against the case of the petitioner. Hence, I hold that the accident was due to the rash and negligence of the respondent. Accordingly, the point is answered.

7. Answer to Point No. 2 :

The petitioner produced the Ex.P2 Accident register and the Ex.P3 Wound certificate according to which he sustained fracture on the right neck of femur and right shaft of femur and lacerated injury over his right knee and they were opined to be grievous in nature.

8. As per the Ex.P9, the Petitioner was admitted, in ASK Win Sri Sai Hospital on 31.05.2018 and discharged on 28.06.2018. The Ex.P10 is the discharge summary issuedd by the Ganga Hospital, Coimbatore in which it is indicated that 24.01.2019 and discharged on 31.01.2019. The Ex.P11 is the Medical Bills for Rs. 97,570/-, the Ex.P12 is the Pharmacy bills for Rs. 26,853/-, the Ex.P13 is the Medical Bills for Rs. 1,93,710/- incurred at the Ganga Hospital and the Ex.P14 is the pharmacy bills for Rs. 12,711/- and the Ex.P15 is the blood bank bill for Rs. 1,300/-. The medical bills were not disputed by the 4th Respondent with material defence.



9. Considering all the above facts and the fracture injuries on the right neck and shaft of the Femur, at the age of 34 years, this Tribunal is of the view that he would have suffered a lot which cannot be described in words. Hence, towards **pain and sufferings**, this tribunal awards **Rs. 50,000/-** and towards **loss of amenities Rs. 50,000/-**. As per the Ex.P11 to Ex.P15, the petitioner incurred Medical Bills expenditures for **Rs. 3,32,144/-** and the same is awarded towards the **Medical expenditures**.

10. Regarding the partial loss of income, the petitioner claimed to be working as a Cashier in Petrol bunk, thereby earning Rs. 15,000/- per month. However, the petitioner did not produce any proof for the said fact. Considering the facts and circumstances of the case and the age of the petitioner and the period of accident being 2018, this Court notionally fixes the monthly income of the Petitioner to be Rs. 9,000/-. Considering the nature of the multiple fracture injuries and the period of treatment as indicated in the Ex.P9 and the Ex.P10, the Petitioner must have been in rest at least for six months. Hence, towards, the **Partial Loss of income**, this Court awards **Rs. 54,000/-** (9,000 x 6).

11. Regarding the **Transportation and Extra-nourishment expenses** considering the nature of the multiple injuries and duration of the Medical treatment for two times as indicated in the Ex.P9 and Ex.P10 and



place of accident and places of treatment and his residence, this Tribunal awards **Rs. 30,000/-**. Towards **attendant's charges**, this tribunal awards **Rs. 10,000/-**. It is also held that the petitioner is entitled to **Rs. 3,000/-** towards damages of clothes and articles.

12. To sum up, under all the Headings, the Petitioner is entitled to the following compensation:

1.	Pain and Sufferings	Rs.	50000
2	Loss of Amenities	Rs.	50000
3	Medical Expenditures	Rs.	332144
4	Loss of income	Rs.	54000
5	Transportation Extra-nourishment charges	Rs.	30000
6	Attendant's Charges	Rs.	10000
7	Clothes and articles	Rs.	3000
	Total	Rs.	529144
	Rounded off to nearest Thousands	Rs.	529000

13. Thus, the Petitioner is awarded a compensation of **Rs. 5,29,000/- (Rupees Five Lakhs and Twenty Nine Thousand only)** with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit.

14. Answer to Point No. 3:

This court already held that the accident was due to the rash and



negligence of the Respondent. The Ex.P4 is the copy of the Motor Vehicle Inspection Report according to which the 1st respondent was having a valid driving license during the accident and the vehicle was duly insured with the 4th Respondent. Therefore, the 4th Respondent is liable to pay the compensation to the petitioner. Accordingly, the point is answered.

15. Result:

In the result,

- (a) The Petition is partly allowed;
- (b) The Petitioner is awarded a compensation of **Rs. 5,29,000/- (Rupees Five Lakhs and Twenty Nine Thousand only)** with interest at a rate of 7.5 % p.a. from the date of filing of the petition **21.02.2019** till the date of deposit excluding the period of dismissal for default, if any;
- (c) That the 4th respondent is directed to deposit the said compensation amount in the **Tribunal's Account No. 35960806484**, State Bank of India, Dharapuram Branch (IFSC Code SBIN0000831) **within 2 Months**;
- (d) Upon such deposit, the 4th respondent is directed to send a copy of **Bank Advice** to this Tribunal and a copy of the same to be sent to the Petitioner;
- (e) Upon such deposit, the petitioner is **permitted to withdraw** the



entire amount immediately;

(f) The petitioner is directed to deposit the **deficit court fees** for the award amount **within two weeks** from the date of this order, if not already paid and only on such deposit, the Petitioner is entitled for disbursement;

(g) The Advocate fees is fixed as **Rs.23,950/-**.

Dictated to Steno-Typist, taken down by her in short-hand, transcribed and computerized by her with the help of voice recorder and corrected by me in my Laptop and pronounced by me in the Open Court on this the 21st day of March, 2024.

Motor Accident Claims Tribunal
Authority / Subordinate Judge,
Dharapuram.

APPENDIX

A. Petitioner side Witness :

1. Kalimuthu (Petitioner)

B. Petitioner side Exhibits :

1. 01.06.2018 True copy of First Information Report
2. --- Copy of Accident Record
3. --- Copy of Wound Certificate
4. --- Copy of Motor Vehicles Inspection Report (TN 47 T 4726)
5. --- Copy of Rough Sketch
6. --- Copy of Observation Mahazar
7. --- Copy of Final Report
8. --- Copy of Letter Received under RTI
9. --- Dharapuram ASK Win Sri Sai Hospital Discharge summary



10. --- Kovai Ganga Hospital Discharge summary
11. --- Dharapuram ASK Win Sri Sai Hospital Medical Bills for Rs.97,570/-
12. --- Dharapuram Saravana Pharmacy Bills for Rs.26,853/-
13. --- Kovai Ganga Hospital Original Bills for Rs.1,93,710/-
14. --- Kovai SK Pharmacy Bills for Rs.12,711/-
15. --- Karur Voluntary Blood Bank Bills for Rs.1,300/-
16. --- Copy of Adhar Card of Petitioner
17. --- Copy of Bank Pass Book of Petitioner

C. Respondents side Witness and Exhibits: Nil

D. Court side Exhibits : NIL

Note: Since the Drafting of Decree has been dispensed with by direction of the Hon'ble High Court in **M/S.Cholamandalam MS Genl. Ins Co Ltd. v. Mr. Ayyanar & Ors., Tr.CMP. No. 264-281/2020 dt. 11.05.2020.**

Digitally signed copy of the Award/Order shall be utilized for all the purposes.

Motor Accident Claims Tribunal
Authority / Subordinate Judge,
Dharapuram.