

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1689 of 2011

R.Rajendran

... Appellant/
Petitioner

Vs.

1. V.Subramani

2. The New India Assurance Co. Ltd.,
No.45, Moore Street, V Floor,
Chennai 600 001.

.. Respondents/
Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 27.02.2006 made in M.C.O.P.No.4428 of 2000 on the file of the Motor Accidents Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : M/s.Anand and Suryas

For 2nd Respondent : Mr.P.G.Padmanabhan

J U D G M E N T

Challenging the judgment dated 27.02.2006 passed by the Motor Accidents Claims Tribunal, V Small Causes Court, Chennai in M.C.O.P.No.4428 of 2000, the aggrieved claimant has come up with this appeal seeking enhancement of compensation.

2. The claimant in this case is the injured himself. On 30.05.2000 about 15.30 hours, when the claimant was travelling in a Van bearing Registration No.TN 32 A 1461, proceeding from east to west direction on Jawaharlal Nehru 100 feet road, the driver of the Van drove the vehicle in a rash and negligent manner endangering public safety and hit on an ongoing Tractor Lorry from behind, as a result of which, the claimant sustained grievous and multiple injuries all over the body. The claimant filed a claim petition before the Tribunal seeking a sum of Rs.3,00,000/- as compensation for the injuries.

3. The Tribunal, on a consideration of the entire oral and documentary evidence, held that the driver of the Van is responsible for the accident and awarded a sum of Rs.1,09,000/- as compensation to the claimant, under the following heads:

Heads	Amount
Loss of income	Rs. 20,000.00
Transport to Hospital	Rs. 2,000.00
Extra Nourishment	Rs. 2,000.00
Pain and suffering	Rs. 20,000.00
Permanent Disability	Rs. 45,000.00
Loss of earning power	Rs. 20,000.00
Total	Rs.1,09,000.00

4. Heard the learned counsel on either side and perused the material documents placed on record.

5. According to the claimant, at the time of accident, he was aged 30 years, working as a Leather Merchant (Commission Agent) and was earning a sum of Rs.10,000/- per month. Since there is no proof in support of his avocation, the Tribunal fixed a sum of Rs.5,000/- as his monthly income.

6. From the records, it is seen that the claimant sustained Compound Grade - II fracture in left femur, Compound Grade - II fracture in left leg, Patella, lacerated injury and multiple injuries all over the body. He took treatment for a day in a Private Hospital and was an inpatient at Government Stanley Hospital, Chennai, from 31.05.2000 to 17.08.2000. Also, he underwent surgery in left femur region and left leg patella was removed, due to which there is shortening of left leg. For the said injuries, the Doctor assessed the disability of the claimant at 45% and the Tribunal fixed the same.

7. In view of the grievous injuries sustained by the claimant, this Court is of the view that the quantum awarded by the Tribunal is certainly on the lower side and it has to be enhanced. Instead of awarding compensation separately for permanent disability and loss of earning power, this Court is inclined to award compensation under the head 'loss of earning power' alone. Accordingly, fixing the monthly income of the claimant at Rs.3000/- as the accident took place in the year 2000 and applying the multiplier of '17', the total loss of income works out to Rs.6,12,000/- and 45% of the same works out to Rs.2,75,400/-, which sum is awarded as compensation under the head 'loss of earning power'.

8. Further, the compensation awarded under other heads are modified, as per the tabular column given below:

Heads	Amount awarded by the Tribunal	Amount enhanced by this Court
Loss of income (4 months)	Rs. 20,000.00	Rs. 12,000.00

Heads	Amount awarded by the Tribunal	Amount enhanced by this Court
Transport to Hospital	Rs. 2,000.00	Rs. 2,000.00
Extra Nourishment	Rs. 2,000.00	Rs. 5,000.00
Pain and suffering	Rs. 20,000.00	Rs. 20,000.00
Permanent Disability	Rs. 45,000.00	-
Loss of earning power	Rs. 20,000.00	Rs.2,75,400.00
Total	Rs.1,09,000.00	Rs.3,14,400.00 r/off to Rs.3,15,000.00

9. In fine, the award passed by the Tribunal is enhanced and the appellant/claimant is entitled to a sum of Rs.3,15,000/- (Rupees Three Lakhs Fifteen Thousand only) as revised compensation. The interest fixed by the Tribunal at 7.5% per annum is confirmed.

10. The 2nd respondent/Insurance Company is directed to deposit the revised compensation awarded by this Court, less the amount already deposited if any, together with accrued interest to the credit of M.C.O.P.No.4428 of 2000 on the file of the Motor Accidents Claims Tribunal, V Small Causes Court, Chennai within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the appellant/claimant in the form of a crossed Account Payee Cheque, favouring only the appellant/claimant and it shall not be issued in favour of any other person/Company.

11. Further, it is seen that the appellant/claimant has paid Court fee valuing the appeal for a sum of Rs.1,00,000/-. In view of the enhancement of award, the appellant is directed to pay the Court fee for the enhanced award amount, after adjusting the Court fee that has already been paid by him.

The Civil Miscellaneous Appeal is allowed with the above direction and observation. No costs.

Sd/-

Asst.Registrar (CS III)

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Sub Asst. Registrar

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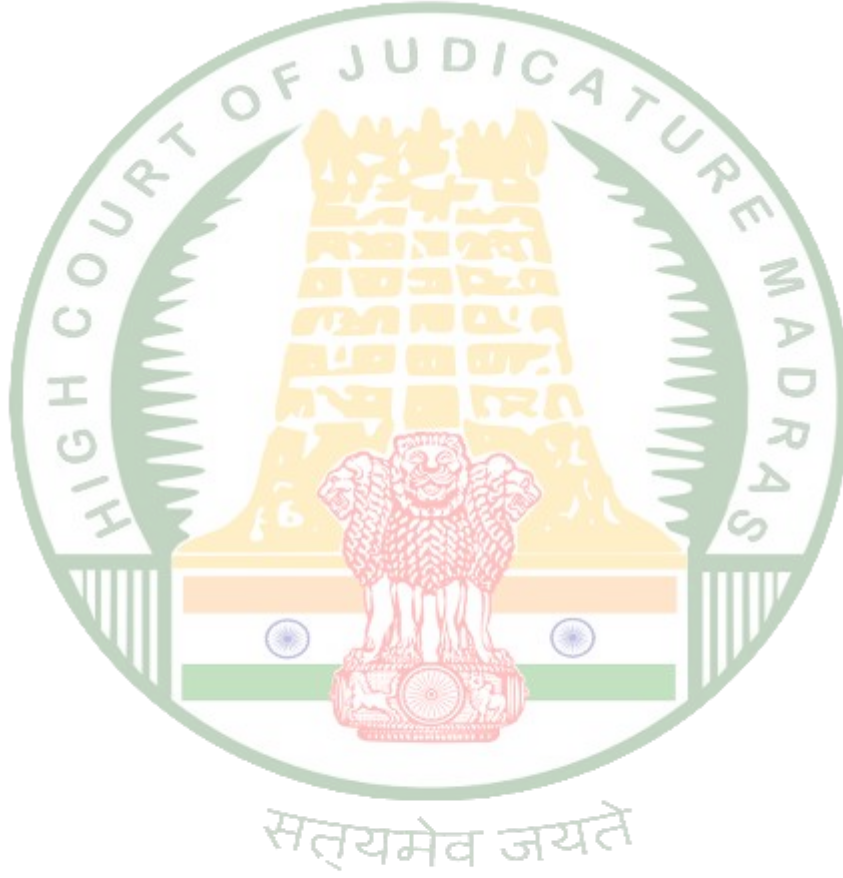
To :

The V Judge/ Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

1 cc to M/s. Anand and Suryas, Advocate, Sr. 15207

C.M.A.No.1689 of 2011

MP (CO)
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