

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1457 of 2014

Mr.N.Manivel

.. Appellant /Claimant

versus

1. Mrs.M.Kamalam

2. M/s.United India Insurance

Company Limited,
Pallivasal Street,
Perambalur

... Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 30.10.2003 made in M.C.O.P.No.505 of 2002 on the file of the Motor Accident Claims Tribunal, District Judge, Perambalur.

For appellant : Mr.J.Jayendra Krishnan
for M/s.Hajee P.K.Jamal Mohamed
For respondent : Mr.J.Vijayaraghavan (R2)
No appearance (R1)

J U D G M E N T

This appeal has been filed by the claimant, challenging the compensation of Rs.45,000/-, awarded by the Claims Tribunal, as against the claim made for a sum of Rs.3,00,000/-.

2. The Claimant, Mr.Manivel, aged 29 years, earning a sum of Rs.4,000/- per month met with an accident on 28.04.2002 due to which the claimant sustained grievous injuries. Hence, he filed a Claim Petition in M.C.O.P.No.505 of 2002, before the Motor Accident Claims Tribunal (District Judge) Court, Perambalur, claiming a sum of Rs. 3,00,000/- as compensation.

3. The Claims Tribunal, on considering the oral and documentary evidence has awarded a sum of Rs.45,000/- as compensation. The break-up details of the same are as under:

Disability	-	Rs.30,000/-
Pain and sufferings	-	Rs. 5,000/-
Medical Expenses	-	Rs. 5,000/-
Loss of income	-	Rs. 5,000/-

Total		Rs.45,000/-

3. The learned counsel appearing for the appellant submits that when the disability has been assessed at 30% and the tribunal ought to have adopted multiplier method of quantification and the tribunal is not correct in awarding a meager sum towards the disability at Rs.1,000/- per percentage. It is also represented that the compensation awarded under other heads, especially loss of income, pain and sufferings are also very low.

4. In order to appreciate the contentions, it is necessary to consider nature of injuries and period of treatment. The claimant sustained fracture on his left leg and he was treated in the Government Hospital at Perambalur and later he was referred to Government Hospital, Trichy. As per Ex.P.2- Wound Certificate, the Doctor has noticed the following injuries:

1. Humenur (R) side:
 2. Laceration 2x2x2 cm over the forehead & Nose
& ... different size;
 3. Multiple abrasion over the face.
- and found that injury No.1 is grievous in nature and

5. P.W.2- Doctor who examined the claimant has certified the disability @ 38%. Ex.P5, disability certificate discloses that movement is restricted by 60 degrees. According to P.W.2- Doctor, the claimant is not able to lift any heavy object with his left hand. Though the Tribunal has fixed the disability at 30%, however, has awarded only Rs.1,000/- per percentage of disability. On a consideration of the nature of injuries sustained, this Court fixes the compensation at Rs.2,000/- per percentage of disability and, accordingly quantifies the compensation at Rs.60,000/-.

6. Insofar as the compensation awarded under the head pain and sufferings at Rs.5,000/- is concerned, this Court feels that it is on the lower side and, accordingly enhances the compensation to Rs.15,000/-. Loss of income has been awarded at Rs.5,000/-, which is not only low, but is without any basis or rationale. Therefore, this Court deems it fit to enhance the same to Rs.20,000/=. The compensation awarded at Rs.5,000/- towards medical expenses is confirmed.

7. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs.45,000/- to Rs.1,00,000/-, under the following heads :-

Pain and Suffering	-	Rs.15,000/-
Loss of income (for a period of 5 months)	-	Rs. 20,000/-
Medical Expenses	-	Rs. 5,000/-
Disability (30% X Rs.2,000/-)	-	Rs.60,000/-

Total		Rs.1,00,000/-

8. For the reasons aforesaid, this civil miscellaneous appeal is allowed enhancing the compensation from Rs.45,000/- to Rs.1,00,000/- with interest @ 9% p.a.from the date of petition till the date of deposit.

9. The Insurance Company is directed to deposit the enhanced compensation amount, as quantified by this Court above, along with interest, and costs as ordered by the Tribunal, less the amount, if any, already deposited, to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter. The claimant shall pay the requisite court fee, if any, on the enhanced compensation, before receiving a copy of this judgment. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

1. Motor Accident Claims Tribunal/District Judge
Special District Judge, Perambalur

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Copy to

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

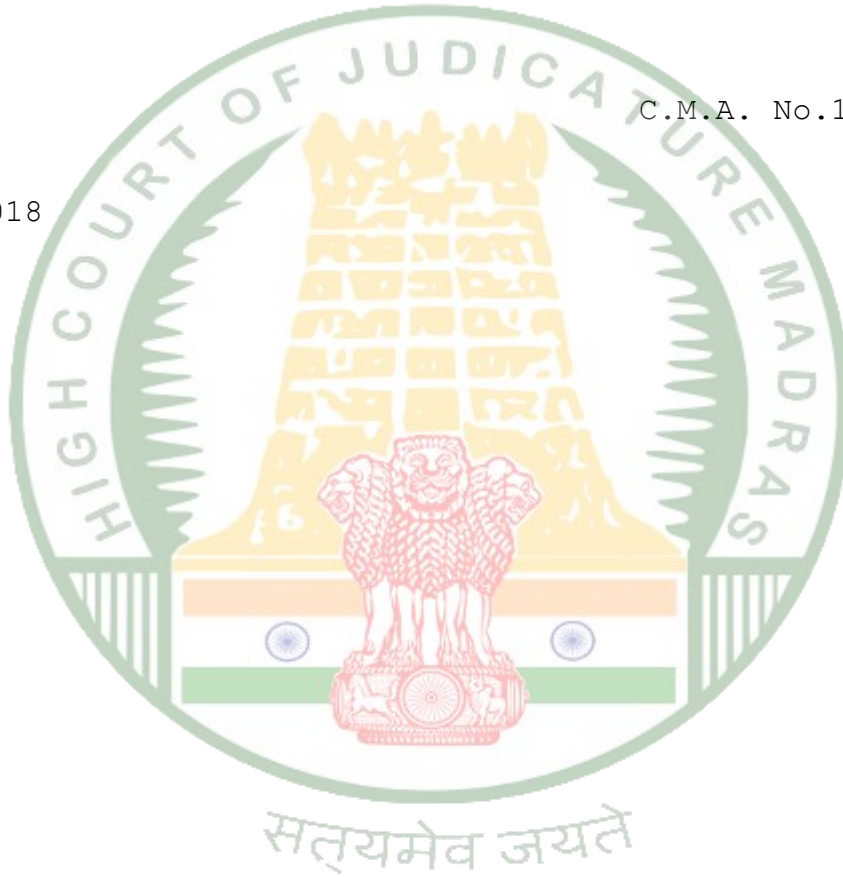
(+2 copies)

+1 cc to Mr.J.Jayendra Krishnan Advocate 2416

+1 cc to Mr.M.J.Vijayaraghavan Advocate sr 2323

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