

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.340 of 2014

R.Santhoshkumar

.. Appellant/Petitioner

versus

1. K.N.Selvakumar

2.M/s.The New India Assurance Co., Ltd.,
2nd Floor, Jeewan Deep Buildings,
No.8, Parliament Street,
New Delhi. .. Respondents/Respondents
(R-1 remained exparte before the
Tribunal, hence notice dispensed with)

Appeal filed under Order Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 30.08.2012 and made in M.C.O.P.No.7 of 2011 on the file of Motor Accident Claims Tribunal/Sub Court at Namakkal.

For appellant : Mr.Ma.Pa.Thangavel
For Respondents: Mrs. S.R. Sumathy

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, as inadequate the claimant has come forward with this Civil Miscellaneous Appeal.

Brief Facts:

2. On 27.10.2010, at 2:00 P.M., while the claimant, Santhoshkumar was proceeding in his Hero Honda bearing registration No.TN. 28-A-8266 near Super Broilers on the Namakkal to Tiruchengode main road, a Maruti Omni van bearing registration No.TN.34-A-2929, driven at a very high speed came in the opposite direction and dashed against the claimant's vehicle due to which the claimant sustained grievous injuries and also suffered fracture in his right hand. Hence, he filed a claim petition, in M.C.O.P.No.7 of 2011, before the Motor Accident Claims Tribunal/Sub Court, Namakkal, seeking compensation for a sum of Rs.7,00,000/-.

3. The Claims Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.1,69,940/- as compensation, along with interest @7.5% per annum from the date of petition till the date of deposit. The break-up details of the same are as under:

Partial permanent disability	-	Rs.80,000/-
Medical Expenses	-	Rs.81,940/-
Pain and sufferings	-	Rs. 5,000/-
Extra Nourishment	-	Rs. 3,000/-

Total		Rs.1,69,940/-

Aggrieved by the inadequate compensation awarded by the Tribunal, the claimant has preferred the present appeal for enhancement.

4. The learned counsel for the appellant submits that the amount of compensation awarded by the Claims Tribunal is very low. He further submits that the Tribunal ought to have adopted the multiplier method, while quantifying the compensation towards partial permanent disability. It is his further submission that at the time of accident the claimant was only 28 years and working as a mechanic in Meha Tech Industries, Namakkal and earned a sum of Rs.7,500/- per month. Due to the impact of the grievous injuries, he underwent various surgeries and the bones are properly not reunited and, therefore, he is unable to perform his earlier avocation in a better manner and, therefore, has lost his capacity to earn and needs to be compensated. However, the Tribunal has not appreciated this aspect and awarded just and reasonable compensation and, therefore, the same needs to be enhanced.

5. A perusal of the award would go to show that as per evidence of P.W.2, the Doctor, who examined the claimant has stated in his evidence that due to the fracture and injuries sustained by the claimant, it will not be possible for him to work as before and since he had fracture in his right hand, it would be difficult for him to lift heavy objects. However, the Tribunal has not taken note of the above evidence in proper perspective and did not adopt multiplier method. This Court is of the view that this is a fit case for adoption of multiplier method.

6 Though it is claimed that the claimant was earning a sum of Rs.7,500/- per month, however, no documentary evidence has been filed to support the said stand. In the absence of any documentary evidence, this Court fixes the monthly income at Rs.1,500/- and by adopting the multiplier 14, quantifies the compensation under the head partial permanent disablement at Rs.2,52,000/- (1500x12x14).

7. A further perusal of the award reveals that very meagre compensation has been awarded towards pain and sufferings and extra nourishment. Keeping in mind the injuries sustained by the claimant, the period of treatment and the impact of the injuries on the day-to-day living of the claimant, this Court is of the view that the compensation towards pain and suffering and extra nourishment requires to be enhanced. Accordingly, the compensation towards pain and suffering is enhanced from Rs.5,000/- to Rs.20,000/- and the compensation towards Extra Nourishment is enhanced from Rs.3,000/- to Rs.10,000/-. Further, this Court feels that some compensation needs to be awarded towards transport expenses. Accordingly, a sum of Rs.10,000/- is awarded towards Transport Expenses. The compensation awarded medical expenses, which is supported by bills is confirmed.

8. Accordingly, the compensation awarded by the Tribunal is enhanced to Rs.3,73,940/- under the following heads :-

Partial permanent disability	-	Rs.2,52,000/-
Medical Expenses	-	Rs. 81,940/-
Pain and sufferings	-	Rs. 20,000/-
Extra Nourishment	-	Rs. 10,000/-
Transport Expenses	-	Rs. 10,000/-

Total		Rs.3,73,940/-

9. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Claims Tribunal is enhanced from Rs.1,69,940/- to Rs.3,73,940/- along with interest @ 7.5% per annum from the date of petition, till the date of deposit. No costs.

10. The Insurance Company is directed to deposit the entire amount of compensation as awarded by this Court above along with interest at 7.5% p.a. from the date of petition till date of deposit along with costs as awarded by the Tribunal, 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 amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

arr/GLN

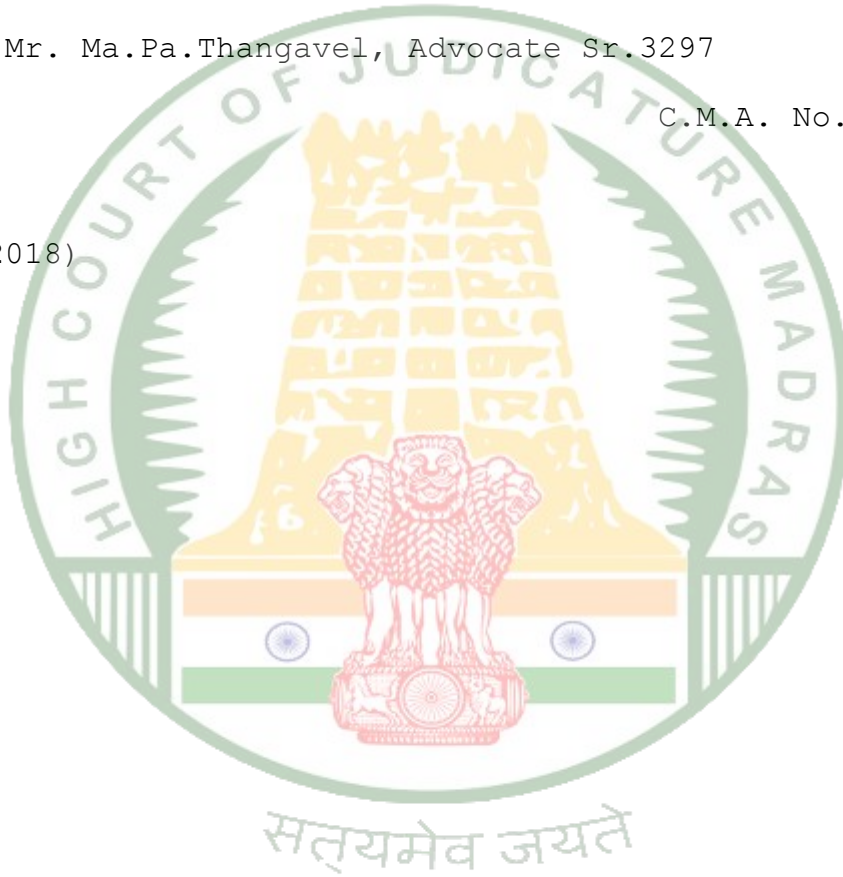
To

1. The Motor Accident Claims Tribunal,
Sub Court at Namakkal.
2. The Section Officer, VR Section,
High Court, Madras.

+ 1 cc to Mr. Ma.Pa.Thangavel, Advocate Sr.3297

C.M.A. No.340 of 2014

CA(CO)
EU(14/05/2018)



WEB COPY