

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

CMA.No.670 of 2017

A.Samuel

... Appellant/Petitioner

.Vs.

1. R.Senthilkumar

2. The Bajaj Allianz Gen.Ins. Company,
Prince Towers, 4th Floor,
25/26, College Road,
Chennai-34.

... Respondents/Respondents

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree in MCOP.No.1162 of 2009 dated 07.01.2013 on the file of the Motor Accidents Claims Tribunal- cum-IV Small Causes Court, Chennai.

For Appellant : Ms.Ramya V. Rao
for Mr.R.S.Jain-Le.Sadamar

For Respondents : Mr.D.Bhaskaran for R2
R1- Remained ex-parte before the
trial Court

J U D G M E N T

Challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, in M.C.O.P.No.1162 of 2009, dated 07.01.2013, the claimant has come forward with this Civil Miscellaneous Appeal for enhancement of compensation.

2. The claimant, who was aged about 40 years and working as Machine Operator, met with an accident that occurred on 20.04.2008, while he was riding his motor cycle along with his wife as pillion rider and thereby they sustained injuries and fractures. Hence, the claimant filed a claim petition in M.C.O.P.No.1162 of 2009 seeking compensation for a sum of Rs.6,00,000/- and his wife also filed a claim petition in M.C.O.P.No.1161 of 2009.

3. The Tribunal, on consideration of oral and documentary evidence, has awarded a sum of Rs.3,54,800/-, with interest @ 7.5% per annum from the date of petition till the date of deposit vide common judgment dated 07.01.2013 passed in M.C.O.P.No.1161 of 2009 and M.C.O.P.No. 1162 of 2009.

4. The break-up details in M.C.O.P.No.1162 of 2009 are as follows:

Pecuniary Loss	
Loss of income for one month at the rate of Rs.4,000/- p.m.	- Rs. 4,000/-
Transportation	- Rs. 3,000/-
Extra nourishment	- Rs. 5,000/-
Medical Expenses	- Rs.1,26,768/-
Damages to Clothes	- Rs. 1,000/-
Non Pecuniary Loss	
Pain and suffering	- Rs. 35,000/-
Disability (4,000x12x15x25%)	- Rs.1,80,000/-
	- -----
Total	- Rs.3,54,768/-
	- -----

Rounded off to Rs.3,54,800/-

5. The learned Counsel for the appellant/claimant submitted that the amount under the head of loss of earning during the treatment period has to be enhanced by awarding the entire sum of Rs.50,000/-. Likewise, the amount awarded under the heads of Extra nourishment, Pain and sufferings have also to be enhanced. He further submitted that under the heads of attender charges, loss of amenities and further medical expenses, no amount have been awarded and as such, the amount of compensation awarded by the tribunal needs to be enhanced.

6. Based on the arguments put forth by the learned Counsel for the appellant, the income of the appellant is fixed at Rs.5,000/-, as he is working as Machine operator and the disability percentage is taken for the whole body as 25% and calculating with multiplier of 15 (5000x12x15x25%= 2,25,000/-) a sum of Rs.2,25,000/- is arrived at under the head of Disability. Due to the said accident, definitely, the appellant would have suffered very much and it would affect his avocation for at least five months. Hence loss of income is calculated for 5 months i.e. 5000 x 5= 25,000/-. Like wise, a sum of Rs.10,000/- is fixed under the head of transport charges and a sum of Rs.10,000/- is fixed under the head of extra nourishment and Rs.50,000/- is fixed under the head of pain and sufferings, by considering the injuries and fractures sustained by him and treatments given to him.

7. In addition to that after discharging from hospital also, the appellant took further treatment for his full recovery with the help of an attender and for the same, a sum of Rs.10,000/- is awarded under the head of Attender Charges, a sum of Rs.50,000/- is awarded for loss of amenities and a sum of Rs.20,000/- is awarded for Further medical expenses. In so far as the other heads are concerned, i.e. medical expenses, damage to cloths, the award passed by the trial court is confirmed.

8. In fine, the quantum of compensation awarded by the Tribunal is enhanced from Rs.3,54,800/- to Rs.5,27,768/-, as follows:

Loss of income for five months at the rate of Rs.5,000/- p.m. (5000x5=25,000) -	Rs. 25,000/-
Transportation -	Rs. 10,000/-
Extra nourishment -	Rs. 10,000/-
Medical Expenses -	Rs.1,26,768/-
Damages to Clothes -	Rs. 1,000/-
Non Pecuniary Loss	
Pain and suffering -	Rs. 50,000/-
Disability (5,000x12x15x25%) -	Rs.2,25,000/-
Additional amounts awarded in the appeal	
Attender charges -	Rs. 10,000/-
Loss of amenities -	Rs. 50,000/-
Future medical expenses -	Rs. 20,000/-
Total -	Rs.5,27,768/-

9. In the result, this Civil Miscellaneous Appeal is allowed by enhancing the Compensation from Rs.3,54,800/- to Rs.5,27,768/- with interest @ 7.5% per annum from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this Order. No costs. The claimant is permitted to withdraw the entire amount of compensation on deposit.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

tsi/mst

To

The Motor Accident Claims Tribunal,
IV Small Causes Court,
Chennai.

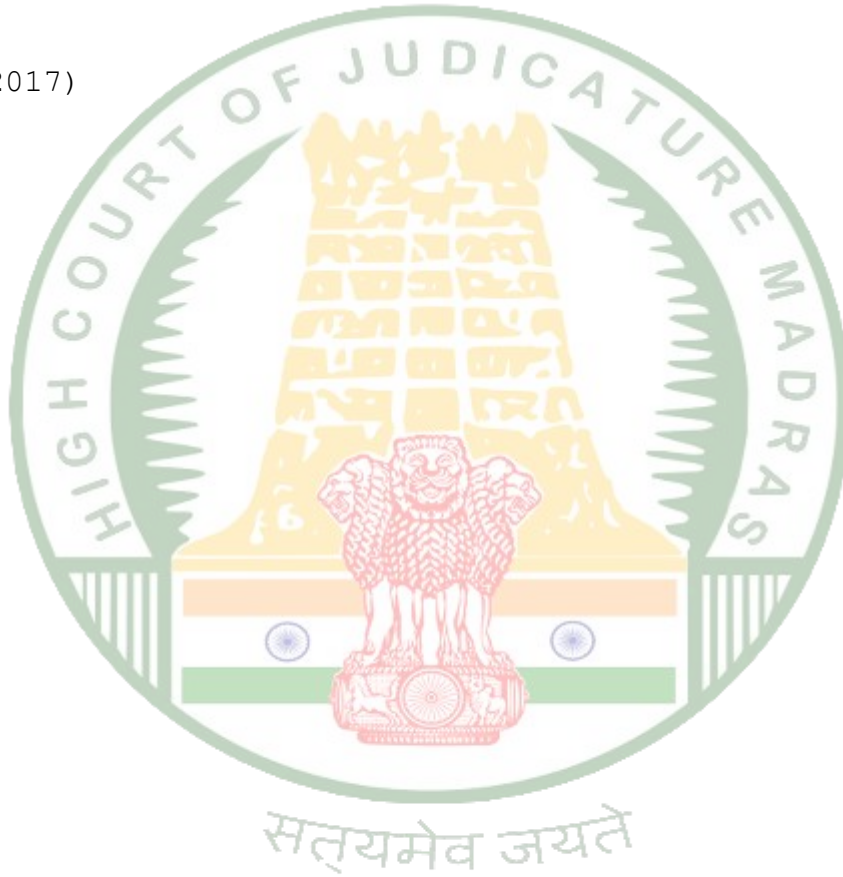
Copy To

The Record Keeper,
V.R.Section,
High Court, Madras.

+1cc to Mr.R.S.Jain-Le.Sadamar, Advocate, S.R.No.17483
+1cc to Mr.D.Bhaskaran, Advocate, S.R.No.16827

CMA.No.670 of 2017

AK (CO)
CA(05/04/2017)



WEB COPY