

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2017

CORAM:

**THE HONOURABLE DR.JUSTICE S.VIMALA**

C.M.A. No.1830 of 2017  
(C.M.A. Sr.No.94549 of 2015)

Samuel Wesley ... Appellant

Versus

1.R.Siva  
2.United India Insurance Company Limited ... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 11.02.2013 made in MCOP.No.3963 of 2011 on the file of the Motor Accident Claims Tribunal(VI Small Causes Court) at Chennai.

For Appellant : Mr.Varadha Kamaraj

**JUDGMENT**

Seeking enhancement of compensation, the claimant has filed this appeal.

2. The claimant aged about 25 years and a student studying in BBA in Annamalai University, suffered injuries in the accident that took place on 11.03.2011.

3. It is the case of the claimant that because of the head injury – left temporal polar EDH suffered by him in the accident, he is suffering severe headache quite often and by reason of such permanent disability, his studies are affected to a great extent.

4. The Tribunal awarded a sum of Rs.1,21,000/- under the following heads :-

|                                                               |                          |
|---------------------------------------------------------------|--------------------------|
| 1. Transportation                                             | : Rs.5,000/-             |
| 2. Extra nourishment                                          | : Rs.5,000/-             |
| 3. Damage to clothes                                          | : Rs.5,000/-             |
| 4. Medical expenses                                           | : Rs.1,500/-             |
| 5. Attendent charges                                          | : Rs.5,000/-             |
| 6. Loss of amenities                                          | : Rs.10,000/-            |
| 7. Pain and suffering                                         | : Rs.30,000/-            |
| 8. Disability of 30% at the rate of Rs.2,000/- per percentage | : Rs.60,000/-            |
| Total                                                         | : <u>Rs.1,21,500/-</u> * |

\*(mistakenly shown by the Tribunal as Rs.1,21,000/-)

5. The learned counsel for the appellant would submit that the award passed under the head of loss of permanent disability is required to be enhanced at the rate of Rs.3,000/- per percentage, since the accident

took place in the year 2011.

6. The learned counsel for the respondent/company submitted that the award is excessive and it needs appropriate reduction.

7. Considering the fact that disablement suffered by the claimant is likely to affect his career in future / studies in future, as he is suffering from memory problems, such head injuries would consequently result in loss of enjoyment of amenities. At the relevant point of time, for disablement, the amount of compensation awarded at the rate of Rs.2,000/- per percentage has to be enhanced to Rs.3,000/- per percentage of disability. Accordingly, the compensation under this head is enhanced to Rs.90,000/- (from Rs.60,000) at the rate of Rs.3,000/- per percentage of disability. Excepting this enhancement, in all other respects, the award passed by the Tribunal on each head is in consonance with the nature of injuries suffered by the claimant.

8. In the result, the Civil Miscellaneous Appeal is allowed by enhancing the compensation amount from Rs.1,21,500/- to Rs.1,51,000/-.  
No costs.

9. The Insurance Company is directed to deposit the amount, as

determined in this appeal, less the amount already deposited, with interest @ 7.5% from the date of petition till the date of deposit to the credit of MCOP No. 3963 of 2011 within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant shall withdraw the entire award amount with accrued interest. It is made clear that the claimant is not entitled for payment of interest for the period of delay in filing the present appeal before this Court. Necessary Court fee, if any shall be paid on the enhanced compensation amount.

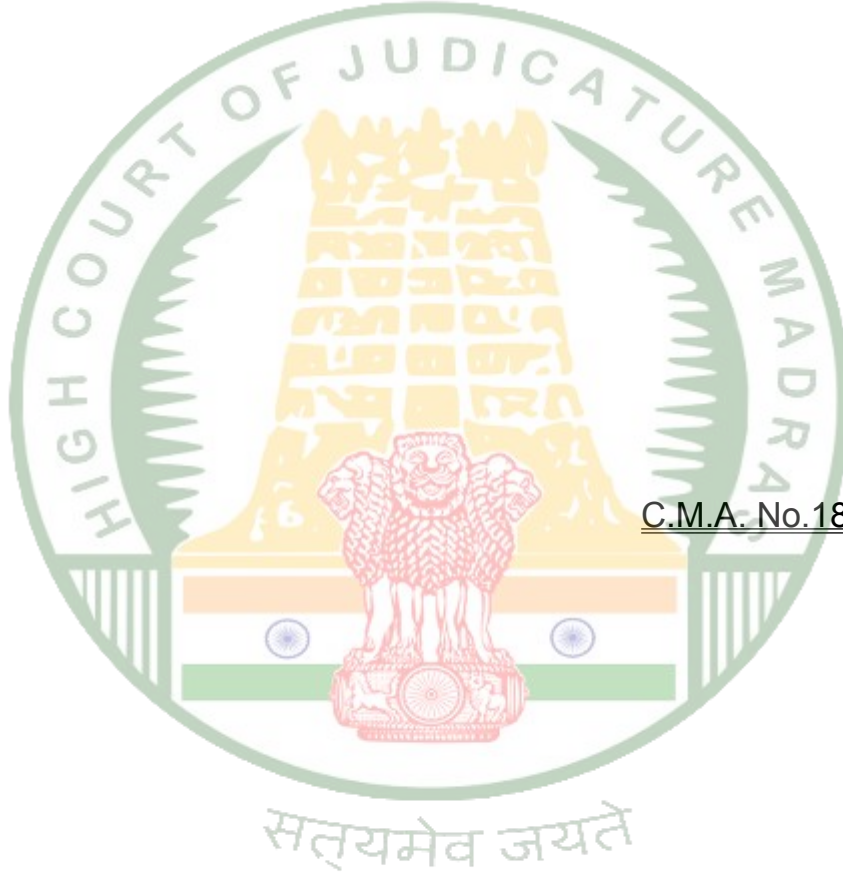
**20.06.2017**

Index : Yes / No  
Internet : Yes / No  
Speaking/Non speaking  
vsi2

To

1. The VI Judge (Motor Accident Claims Tribunal)  
Court of Small Causes,  
Chennai 104.
2. The Section Officer,  
V.R. Section, High Court, Madras – 104.

**Dr.S.VIMALA, J.**  
vsi2



**C.M.A. No.1830 of 2017**

**WEB COPY**

**20.06.2017**