

IN THE HIGH COURT OF JUDICATURE AT MADRAS
24.09.2018
CORAM

THE HONOURABLE MRS.JUSTICE S. RAMATHILAGAM

C.M.A. No.2770 of 2005

T.S. Aruchamy

...

Appellant/Petitioner

Versus

1. Kanagaraj
2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Coimbatore Division I) Limited,
37, Mettupalayam Road,
Coimbatore. Respondents/Respondents

Prayer:

Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award made in M.C.O.P. No.869 of 1995 on the file of Motor Accident Tribunal Second Additional Sub Court, Coimbatore, dated 19.11.2002.

For Petitioner : Ms.N.K. Nithilavani
for Su. Srinivasan

For Respondents : No appearance

JUDGMENT

This Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award made in M.C.O.P. No.869 of 1995 on the file of Motor Accident Tribunal - Second Additional Sub Court, Coimbatore, dated 19.11.2002.

2. The brief facts of the claim petition are as follows :-

The claim application has been filed by the appellant / claimant claiming compensation for the accident that occurred on 11.07.1995 at 3.25 p.m. when he was proceeding in his motor cycle bearing Registration No. MD G 2252 from Thennamallur to Marudhamalai temple on the left side of the road. At that time, the vehicle belonging to the second respondent bearing Registration No.TCB 1715 was driven by its Driver in a rash and negligent manner hit against the appellant, due to which, the appellant was dragged to a distance of 20 feet and he sustained grievous injuries. Hence, the appellant, who is an

agriculturist, aged 49 years at the time of accident by claiming a sum of Rs.1,60,000/- has filed this claim petition.

3. The Tribunal, on consideration of materials placed before it, awarded a sum of Rs.90,000/- as compensation, the breakup details of which are as under:-

Disability @ 30%	: Rs.30,000/-
Medical expenses	: 22,000/-
Nutrition	: 3,000/-
Pain and sufferings	: 15,000/-
Loss of income	: 10,000/-
Repair charges for motor cycle	: 10,000/-

	90,000/-

4. The learned counsel for the appellant argued that the sum awarded by the Tribunal is meagre, as the appellant could not use his left hand to lift any article. Further the disability sustained by the appellant at 30% and the surgery underwent by him have not been considered properly. Even the normal and routine life of the claimant was at risk. Hence on the above ground, the appellant has sought for enhancement of amount before this forum.

5. In order to appreciate this contention, it is necessary to find out the details of injury, period of treatment, percentage of disability and the amount of compensation awarded.

a) The nature of injuries sustained by the appellant are given hereunder :-

- 1) Galazis fracture dislocation of (L) fore arm
- 2) Fracture (L) 4th Metacarpal
- 3) Multiple lacerations and abrasions

b) Period of treatment

The appellant was admitted as inpatient in Shanmuga Nursing Home from 11.07.1995 to 30.07.1995

c) Percentage of disability

Dr.Mohammed Subbair, has been examined as PW3 to prove the percentage of disability. According to his opinion, the appellant sustained fracture in his left hand and surgery was done by fixing screws and plates.

Hence, he has assessed the disability at 30% and had opined that due to the injury there is restriction in movement of left hand.

6. Considering the loss of sensation and restriction in movement of the left hand of the appellant and also by considering the pain suffered by him, this Court is inclined to enhance the award amount under the heads "Nutrition" and "Pain

and suffering" at Rs.5,000/- and Rs.20,000/- respectively and since the sum awarded under other heads are found proper and reasonable, this Court is not inclined to interfere with the award passed under other heads :-

The sum modified by this Court is as follows :-

Heads	Amount awarded by the Tribunal Rs.	Amount awarded by this Court. Rs.
Disability @ 30%	30,000/-	30,000/-
Medical expenses	22,000/-	22,000/-
Nutrition	3,000/-	5,000/-
Pain and sufferings	15,000/-	20,000/-
Loss of income	10,000/-	10,000/-
Repair charges for motor cycle	10,000/-	10,000/-
Total	90,000/-	98,000/-

7. In the result, the appeal is partly allowed by enhancing the award amount from Rs.90,000/- to 98,000/-. No costs. Consequently, connected miscellaneous petition, if any is closed.

8. The second respondent / transport Corporation is directed to deposit the entire amount of compensation, as enhanced by this Court, less the amount, if any, already deposited, along with interest @ 7.5% from the date of petition till the date of deposit to the credit of MCOP No.869 of 1995 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimant/appellant, through RTGS, within a period of two weeks thereafter. Necessary court fee, if any, shall be paid on the enhanced compensation amount by the claimants herein before receiving the copy of the judgment.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi2

To

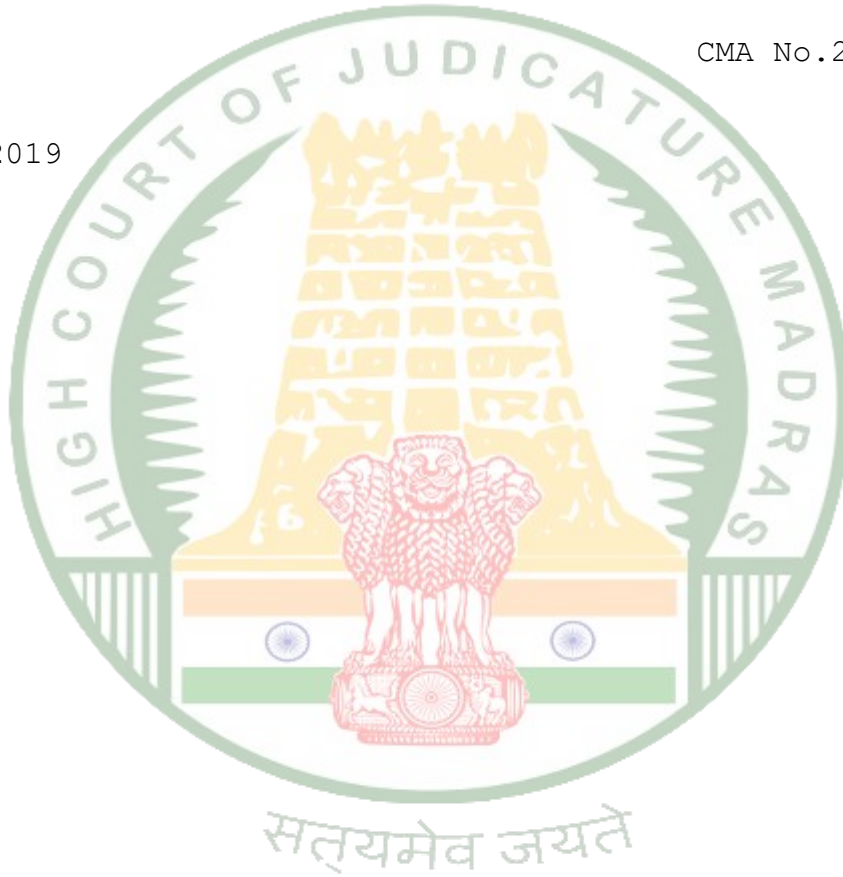
1. The Motor Accident Tribunal -Second Additional Sub Court,
Coimbatore

2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+lcc to Su. Srinivasan, Advocate sr.66452

CMA No.2770 of 2005

rsi(co)
nr 16/10/2019



WEB COPY