

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.1635 of 2018

G.Krishnasagar Appellant/Petitioner

-vs-

1.Mohammed Mougama Doursoltane

2.The New India Assurance Co. Ltd.,
No.45, Moore Street,
5th Floor, T.P.Cell, Chennai 600 001.
Now at Door No.232, Bombay Mutual Building,
N.S.C. Bose Road, Chennai 600 001.

..... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988 against the judgment and decree dated 29.04.2017 passed in M.C.O.P.No.1310 of 2016 on the file of the Motor Accidents Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.UM.Ravichandran

For Respondents : Exparte (For R1)

Mr.S.Manohar (For R2)

J U D G M E N T

[Judgment of the Court was delivered by R.SUBRAMANIAN,J.]

Claimant is on an appeal, seeking enhancement of the compensation which was fixed at Rs.8,74,600/- by the Tribunal, for the injuries suffered by him.

2.The nature of the disability and the percentage of the disability are not in dispute. The claimant was aged about 21 years at the time of accident. He was a final year Engineering

student. The Tribunal has taken a monthly income of Rs.10,000/- and awarded a sum of Rs.5,40,000/- towards loss of future earning.

3.The learned counsel for the appellant would submit that the Tribunal apart from fixing the monthly notional income, at Rs.10,000/- which is too low, has not added any amount towards future prospects.

4.Considering the fact that the claimant was an Engineering student, doing final year, we are of the opinion that the monthly notional income should have been taken atleast at Rs.20,000/-. Adding Rs.40% towards future prospects as per the judgment reported in 2018 (1) LW 331, the monthly notional income is fixed at Rs.28,000/-. The functional disability has been assessed at 25%. The compensation for loss of future earning power is assessed as follows:

$$\text{Rs.28,000/-} \times 12 \times 18 \times 25 = \text{Rs.15,12,000/-}$$

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5.The compensation awarded under the other heads is just and proper and the same is confirmed. Thus, the total compensation is worked out as follows:

Award towards	Amount
Transportation, nourishing food and miscellaneous expenditure	- Rs. 50,000/-
Medical expenses	- Rs. 1,54,000/-
Future medical expenses	- Rs. 10,000/-
Attender charges	- Rs. 20,000/-
Damages for Pain, suffering and trauma	- Rs. 50,000/-
Loss of earning capacity	- Rs.15,12,000/-
Loss of earning during the period of treatment	- Rs. 30,000/-
Loss of Amenities	- Rs. 20,000/-
Total	Rs.18,46,600/-

The same is rounded off to Rs.18,47,000/-.

6.The appeal is allowed in part. The award of the Tribunal is modified to Rs.18,47,000/- with interest at the rate of 7.5% and proportionate costs. The Insurance Company shall deposit the enhanced award amount less the amount already deposited within a period of eight (8) weeks from the date of receipt of a copy of

this order. On such depsoit, the claimant will be entitled to withdraw the same. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

gsa

To
1.The Motor Accidents Claims Tribunal,
II Small Causes Court,
Chennai.

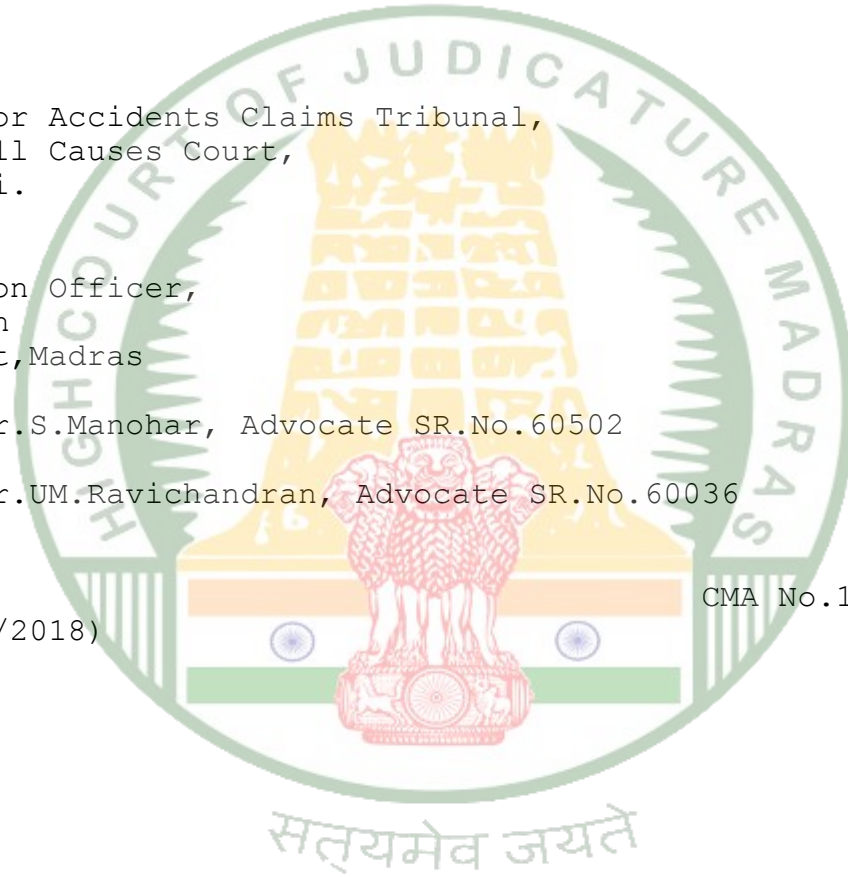
Copy To
The Section Officer,
VR Section
High Court, Madras

+1cc to Mr.S.Manohar, Advocate SR.No.60502

+2cc to Mr.UM.Ravichandran, Advocate SR.No.60036

GMV (11/10/2018)

CMA No.1635 of 2018



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