

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.08.2018

CORAM:

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

C.M.A.No.997 of 2018

M.Mohamed Bilal,
S/o Mohamed Malik,
Door No.69B/49, Noyyal Street,
Tiruppur, Tiruppur District.

...Appellant

Vs.

1.S.Sadish,
S/o Sakthivel,
75-Sheriff Colony,
Aramanaipudur, Tiruppur,
Tiruppur District.

2.Barthi Axa General Insurance Company Limited,
Shop No.965, 2nd Floor,
Sony World Building,
Avinashi Road, Lakshmi Mill,
Puliakulam, Coimbatore.

...Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 17.11.2017 made in MCOP No.545 of 2015 on the file of the Motor Accidents Claims Tribunal/Principal Subordinate Court, Tiruppur.

For Appellant : Mr.K.Sudhakar

For Respondents : Mr.S.Arunkumar for R2

J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN,J.)

The Civil Miscellaneous Appeal has been filed against the judgment and decree dated 17.11.2017 made in MCOP No.545 of 2015 on the file of the Accidents Claims Tribunal/Principal Subordinate Court, Tiruppur seeking enhancement.

2. The injured claimant is the appellant. He has suffered head injury, as a result of the accident. Medical Board has assessed his personal disability as 25%. The Tribunal has

granted a sum of Rs.75,000/- towards partial permanent disability, Rs.3,45,500/- towards medical expenses, Rs.5,000/- towards pain and suffering, Rs.3,000/- towards transport charges and Rs.3,000/- towards extra nourishment and in all , a sum of Rs.4,31,500/- has been awarded.

3. Mr.K.Sudhakar, learned counsel for the claimant, would contend that the Tribunal should have granted certain amount towards loss of earning capacity. According to him, the claimant deposed about the income earned by him in his evidence let in before the Tribunal.

4. Taking into account the over all circumstances and the fact that the accident has taken place in the year 2014, we fix the monthly income of the injured claimant at Rs.10,000/- per month and adding 40% for future prospects, his average monthly income works out to Rs.14,000/-. The injured is aged about 34 years at the time of accident. Therefore, the multiplier to be adopted is 16. The permanent disability is assessed at 25% by the Medical Board. Taking into account the nature of the injuries suffered, we fix the loss of earning capacity as 20%. Thus, the loss of earning capacity works out to Rs.5,37,600/- ($\text{Rs.14,000} \times 12 \times 16 \times 20/100 = \text{Rs.5,37,600/-}$). The compensation granted on the other heads is retained. The details of the modified compensation as per the above discussion are as under:-

Loss of earning capacity	Rs.5,37,600/-
Medical expenses	Rs.3,45,500/-
Pain and Suffering	Rs. 5,000/-
Transportation	Rs. 3,000/-
Extra nourishment	Rs. 3,000/-

Total	Rs.8,94,100/-

The same is rounded off to Rs.8,94,000/-.

The Civil Miscellaneous appeal is partly allowed and the award of the Tribunal is enhanced to Rs.8,94,000/- (Rupees eight lakhs and ninety four thousand only) with proportionate interest and costs. The direction given by the Tribunal to the second respondent to pay the compensation and recover the same from the first respondent is sustained. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

raa

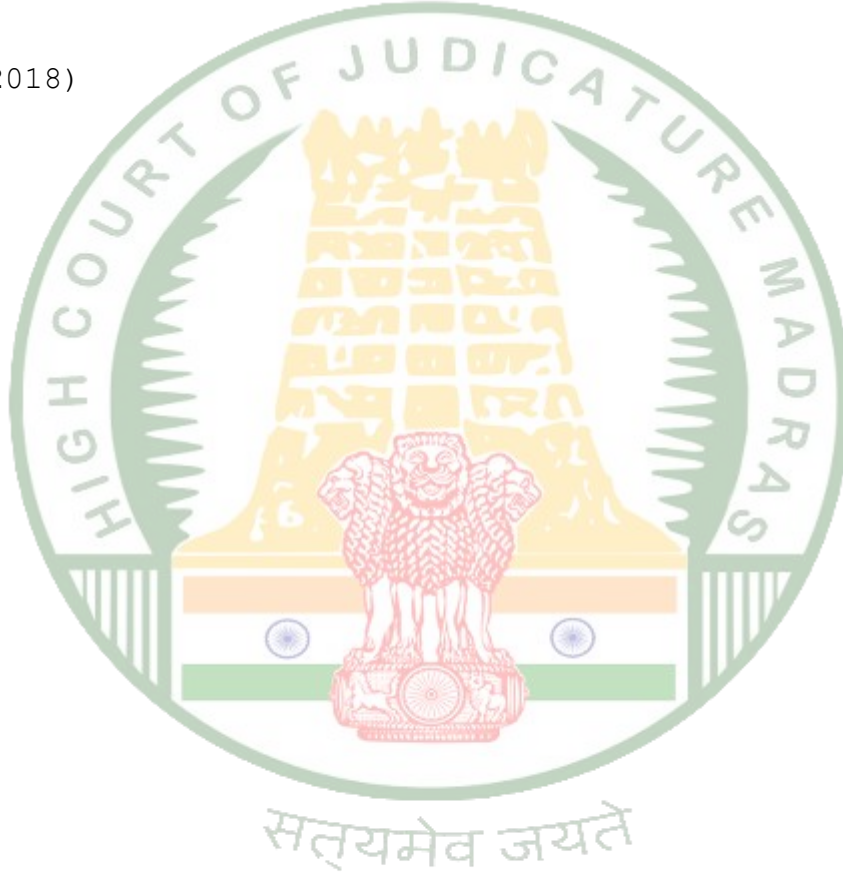
To

The Principal Subordinate Judge/
Motor Accidents Claims Tribunal,
Tiruppur.

+1cc to Mr.K.Sudhakar, Advocate, S.R.No. 57144
+1cc to Mr.S.Arun Kumar, Advocate, S.R.No. 57610

C.M.A.No.997 of 2018

NRI (CO)
GN(27/09/2018)



WEB COPY