

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1081 of 2008

Rosegrand

... Appellant/Petitioner

Vs

1.K.Rajamma

2.K.N.M.Vijayan

3.The Manager,

United India Insurance Company Limited,

South India Co-operative Building,

3<sup>rd</sup> Floor, No.38, Anna Salai,

Chennai - 600 002.

... Respondents/Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accidents Claims Tribunal, Sub-Court, Kancheepuram in M.A.C.T.O.P.No.727 of 1998 dated 11.08.2005.

For Appellant : Mr.G.N.Ramanujam

For Respondents: Mr.R.Ravichandran for R3  
R1 & R2 - Given up

J U D G M E N T

The instant appeal has been filed challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Sub-Court, Kancheepuram in M.A.C.T.O.P.No.727 of 1998, by its Award dated 11.08.2005.

2. The brief facts leading to the filing of the instant appeal are as follows:

(a) The Appellant sustained injuries as a result of an accident caused by a Lorry bearing Registration No.KA-05-6966 owned by the second respondent and insured with the third respondent. The Appellant preferred a claim before the Motor

Accidents Claims Tribunal in M.A.C.T.O.P.No.727 of 1998 seeking compensation of Rs.2,50,000/-.

(b) The Motor Accidents Claims Tribunal by its Award dated 11.08.2005 passed in M.A.C.T.O.P.No.727 of 1998 directed the third respondent to pay the Appellant a sum of Rs.1,73,761/- together with interest at the rate of 9% per Annum from the date of claim till the date of the realisation.

(c) Aggrieved by the Award dated 11.08.2005 passed in M.A.C.T.O.P.No.727 of 1998, the instant appeal has been filed by the claimant seeking enhancement of compensation.

3. Heard, Mr.G.N.Ramanujam, learned Counsel for the Appellant and Mr.R.Ravichandran, learned Counsel for the third respondent.

4. The learned Counsel for the Appellant submits that the compensation awarded by the Tribunal is very low, considering the fact that the Appellant sustained fractures of bone over the left leg at two places and head injuries as listed in Column No.7 of the claim petition.

5. According to him, as a result of the accident, the Appellant suffered loss of earning power, pain and suffering and he sustained 40% permanent disability. According to him, the Tribunal has not adequately compensated the Appellant.

6. Per contra, learned Counsel for the third respondent Insurance Company would submit that the Appellant has been adequately compensated and the Appellant did not suffer any loss of earning capacity as a result of the accident.

7. This Court after having considered the materials available on record and after examining the impugned Award and after hearing the submissions of the respective Counsels observes the following:

(a) It is an undisputed fact that the Appellant was a correspondent in a Matriculation school and he sustained fracture of bone over the left leg at two places and also sustained head injuries.

(b) The Appellant has produced the disability certificate before the Tribunal which was marked as Ex.P2 which discloses that he suffered 40% permanent disability as a result of the accident.

(c) No contra evidence has been produced by the third respondent Insurance Company to disprove the percentage of disability suffered by the Appellant. Under the impugned Award,

The Tribunal has not separately assessed compensation under the various heads, but has given a lumpsum compensation to the appellant towards disability, medical bills and pain and suffering.

8. Towards disability, the Tribunal has awarded Rs.40,000/- as compensation, which, in the considered view of this Court is low. Considering the nature of injuries sustained by the Appellant and his avocation at the time of the accident, the Tribunal ought to have Awarded a higher compensation towards the disability sustained by the Appellant.

9. In the considered view of this Court, the Tribunal ought to have awarded Rs.80,000/- towards disability compensation calculated at the rate of Rs.2,000/- per percentage of disability. In so far as other heads of compensation are concerned awarded by the Tribunal, this Court is of the considered view, that there is no necessity to interfere with the same, since it is a just compensation. This Court enhances the amount awarded by the Tribunal in the following manner;

| Sl. No.                          | Amount awarded by tribunal | Enhanced award passed by this Court |
|----------------------------------|----------------------------|-------------------------------------|
| Injuries and pain and sufferings | Rs. 30,000/-               | Rs. 30,000/-                        |
| Medical expenses                 | Rs.1,03,761/-              | Rs. 1,03,761/-                      |
| Disability at 40%                | Rs. 40,000/-               | Rs. 80,000/-                        |
| Total                            | Rs.1,73,761/-              | Rs. 2,13,761/-                      |

10. In the light of the above observations, the appeal is partly allowed by enhancing the compensation from Rs.1,73,761/- to Rs.2,13,761/- along with interest at the rate of 7.5% per annum on the enhanced amount. No costs.

11. In the result,

(i) The appeal is partly allowed. No costs.

(ii) The enhanced amount shall carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

(iii) The third respondent Insurance Company is directed to deposit the enhanced amount together with interest at the rate of 7.5% within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the Appellant is permitted to withdraw the enhanced amount along

with interest and proportionate costs by filing an appropriate application before the Tribunal.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

arb/msr

To

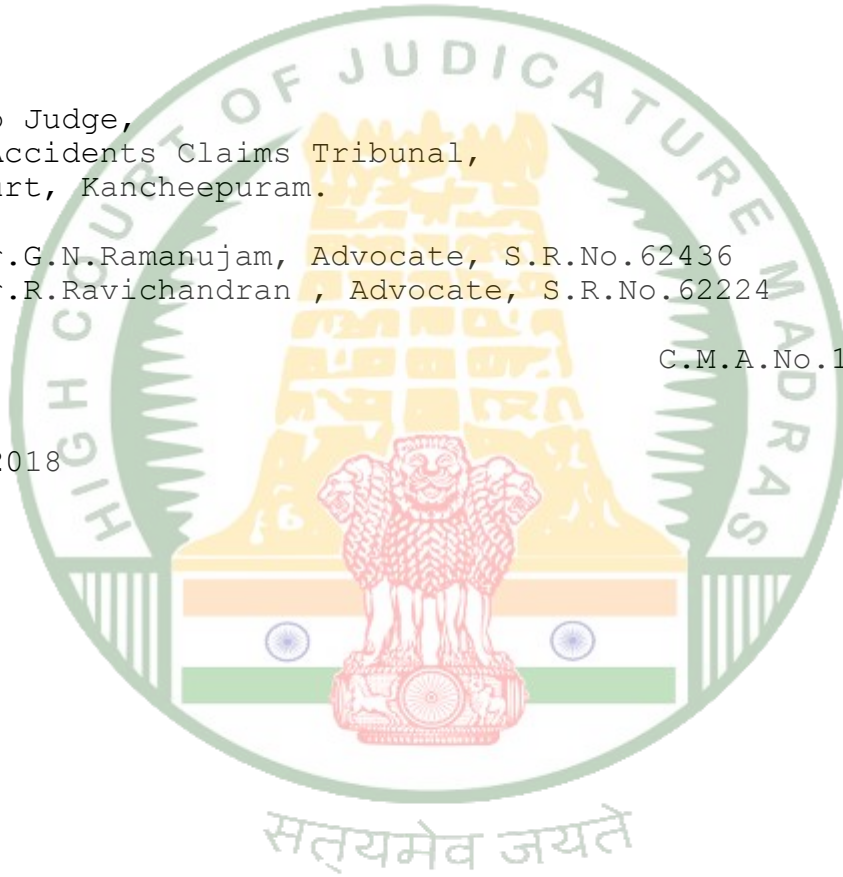
1. The Sub Judge,  
Motor Accidents Claims Tribunal,  
Sub-Court, Kancheepuram.

+2cc to Mr.G.N.Ramanujam, Advocate, S.R.No.62436

+1cc to Mr.R.Ravichandran , Advocate, S.R.No.62224

C.M.A.No.1081 of 2008

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