

C.M.A.No.3622 of 2014

ABDUL QUDDHOSE, J.

The matter is listed under the caption “for being mentioned”.

2. This Court by its Judgment dated 05.10.2018 passed in C.M.A.No.3622 of 2014 enhanced the award dated 26.02.2014 passed by the Motor Accident Claims Tribunal, Principal Sub Judge, Puducherry in MCOP.No.821 of 2012 by passing the following Judgment:

“ In the result, the Award dated 26.02.2014 is partly allowed, by enhancing the compensation to Rs.1,87,906/- (i.e., Rs.1,92,906 - Rs.5000) towards medical expenses and transportation cost together with interest at the rate of 7.5% from the date of claim till the date of realization. The respondent is directed to deposit the enhanced amount at the rate of 7.5% per annum from the date of claim till the date of realization, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.821 of 2012, on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Puducherry, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the

Appellant is permitted to withdraw the said sum by filing an appropriate application. No costs.”

3. However, the Registry of this court while drafting the decree has erroneously indicated that the impugned award amount of Rs.70,000/- has been enhanced to Rs.1,87,906/- which is not correct as Judgment passed by this Court dated 05.10.2018 in C.M.A.No.3622 of 2014 referred to above makes it clear that the sum of Rs.1,87,906/- is in addition to the sum of Rs.70,000/- awarded by the Tribunal under the impugned award dated 26.02.2014 passed by the Motor Accident Claims Tribunal, Principal Sub Judge, Puducherry in M.C.O.P.No.821 of 2012. Insofar as the remaining portion of the impugned award is concerned, they remain unaltered.

4. Registry is directed to make the necessary corrections in the decree and re-issue the corrected decree copy to the petitioner.

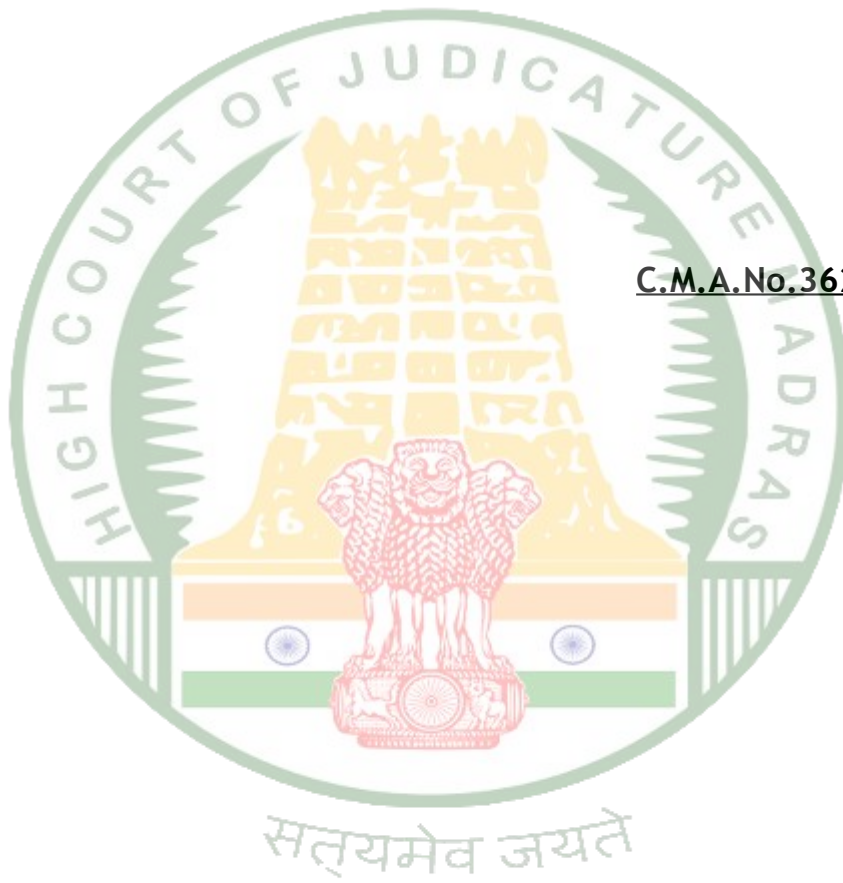
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Note: Issue order copy on 13.01.2020

ABDUL QUDDHOSE, J.



C.M.A.No.3622 of 2014

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08.01.2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3622 of 2014
and M.P.No.1 of 2014

Saravanan

...Appellant

Vs

Ramasamy

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, seeking enhancement of compensation awarded by order dated 26.02.2014 passed in M.C.O.P.No.821 of 2012 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Puducherry.

For Appellant : Mr.R.Sunil Kumar

For Respondent : Mr.C.Veeraraghavan

J U D G M E N T

The instant appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 26.02.2014, passed by the Motor Accident Claims Tribunal, Principal Sub Judge, Puducherry in M.C.O.P.No.821 of 2012.

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

(i)The Appellant sustained injuries on 18.06.2012 as a result of an accident caused by a Bajaj Platina motor cycle bearing Registration No.PY-01-AJ-4395 owned by the respondent.

(ii)The Appellant preferred a claim against the respondent before the Motor Accident Claims Tribunal in M.C.O.P.No.821 of 2012, seeking a compensation of Rs.12,00,000/-.

(iii)The Motor Accident Claims Tribunal, by its Award dated 26.02.2014 in M.C.O.P.No.821 of 2012, directed the respondent to pay the Appellant a sum of Rs.70,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization.

3.Aggrieved by the quantum of compensation awarded by the Tribunal, the instant appeal has been filed by the claimant seeking enhancement of compensation.

4.Heard, Mr.R.Sunil Kumar, learned Counsel for the Appellant and Mr.C.Veeraraghavan, learned Counsel for the respondent.

5.According to the learned Counsel for the Appellant, the

compensation awarded by the Tribunal under the impugned Award is an inadequate compensation. According to him, the Appellant sustained grievous injuries all over the body and also sustained trimalleolar fracture in his right ankle.

6. According to him, due to the injuries, the Appellant was hospitalized from 19.06.2012 to 25.06.2012 in Global Health Hospital at Chennai. According to him, the Appellant is a resident of Puducherry and he was hospitalized at Chennai for taking specialized treatment. According to him, during his stay as inpatient at Global Health Hospital, he had to undergo a surgery by implantation of steel rod in his right ankle.

7. According to the learned Counsel for the Appellant, till now the Appellant requires support for walking and he cannot do work as a normal person. Further, he would submit that the Appellant is a contract staff with Puducherry Health Department and is not a permanent employee of the Government of Puducherry. Therefore, according to the learned Counsel for the Appellant, the Appellant cannot claim medical reimbursement from the Government of Puducherry.

8. According to the learned Counsel for the Appellant, considering the nature of injuries sustained by the Appellant, the Tribunal ought to have awarded a higher compensation. The learned Counsel for the Appellant also submitted that the Appellant has filed M.P.No.1 of 2014 before this Court, seeking permission of this Court to receive documents as additional evidence. The documents filed by the Appellant in M.P.No.1 of 2014 are all medical bills to disclose that the Appellant had incurred a total sum of Rs.1,92,906/- as medical expenses for his treatment for the injuries sustained by him as a result of the accident caused by the respondent's vehicle. The bills filed by the Appellant in M.P.No.1 of 2014 also encloses the bills towards transportation cost for coming from Puducherry to Chennai and return for the purpose of medical treatment.

9. The learned Counsel for the Appellant has submitted that the reasons for not filing the medical bills before the Tribunal was that since the respondent was set *ex parte* before the Tribunal, without giving opportunity to the Appellant to produce the medical bills, the Tribunal passed the impugned Award. The said reason has also been

mentioned in the affidavit filed by the Appellant in M.P.No.1 of 2014 filed to receive the documents as additional evidence.

10.Per contra, the learned Counsel for the respondent would submit that the very same bills, which the Appellant has filed in this appeal ought to have been filed before the Tribunal itself as it was very much available at that point of time. At this stage, after the lapse of more than six years, the medical bills and the bills towards transportation cost filed by the Appellant before this Court ought not to have considered by this Court. According to him, only based on the materials available on record, the Tribunal has passed the impugned Award and the compensation awarded to the Appellant by the Tribunal is a just compensation.

11.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 only due to the vehicle owned by the respondent, the accident had happened which resulted in injuries sustained by the Appellant. The nature of injuries sustained by the Appellant has also not been disputed by the respondent before the

Tribunal.

(b)The Tribunal under the impugned Award has also accepted the nature of injuries disclosed by the Appellant in his claim petition as well as in his deposition.

(c)The Tribunal has given a categorical finding that only due to the rash and negligent driving by the driver of the respondent's vehicle, the accident had happened, which resulted in injuries sustained by the Appellant.

(d)Before this Court, the Appellant has produced the medical bills and the bills towards transportation cost which were not produced before the Tribunal. The Tribunal under the impugned Award has granted only a sum of Rs.5,000/- to the Appellant towards medical and travel expenses. Considering the grievous injuries sustained by the Appellant, the Tribunal ought to have granted a higher compensation towards medical expenses and transportation cost.

(e)In the affidavit filed in support of M.P.No.1 of 2014 before this Court, the Appellant has stated that he could not file the original medical bills towards transportation cost and medical expenses before the Tribunal by inadvertence under the impression that since the respondent was set *ex parte* before the Tribunal, he would have been

given an opportunity to produce the medical bills at an adjourned date by the Tribunal, but before he could produce the same, the Tribunal passed the impugned Award. The reason given by the Appellant for not producing the medical bills and the bills towards transportation cost before the Tribunal, seems to be a genuine one. Therefore, M.P.No.1 of 2014 filed by the Appellant to receive the documents as additional evidence is allowed as prayed for.

13.In the considered view of this Court, the total sum of Rs.1,92,906/- incurred towards medical expenses will have to be awarded as additional compensation to the Appellant. In the instant appeal, the Appellant has sought for an enhanced compensation of Rs.2,00,000/-. As far as the compensation awarded by the Tribunal under other heads are concerned it is a just compensation. Excepting for enhancing the compensation in respect of medical expenses and transportation cost from Rs.5,000/- to Rs.1,87,906/- (i.e., Rs.1,92,906 – Rs.5,000) the impugned Award passed by the Tribunal is not interfered by this Court.

14.In the result, the Award dated 26.02.2014 is partly allowed, by enhancing the compensation to Rs.1,87,906/- (i.e., Rs.1,92,906 –

Rs.5,000) towards medical expenses and transportation cost together with interest at the rate of 7.5% from the date of claim till the date of realization. The respondent is directed to deposit the enhanced amount at the rate of 7.5% per annum from the date of claim till the date of realization, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.821 of 2012, on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Puducherry, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Appellant is permitted to withdraw the said sum by filing an appropriate application. No costs.

05.10.2018

MP.No.1 of 2014
in C.M.A.No.3622 of 2014

Additional documents marked before this Court is detailed below:

(i) Bills issued by Hospital - Sl.Nos.1 to 13

<i>S.No.</i>	<i>Date</i>	<i>Description</i>	<i>Amount</i>
1	19.06.2012	Out-patient bills issued by Global Hospital	Rs.550
2	19.06.2012	Out-patient bills issued by Global Hospital	Rs.1,050
3	19.06.2012	In-patient bills issued by Global Hospital	Rs.74,189
4	22.06.2012	Pharmacy bills issued by Global Hospital	Rs.718.22
5	22.06.2012	Pharmacy bills issued by Global Hospital	Rs.235
6	25.06.2012	In-patient bills issued by Global Hospital	Rs.4,189
7	02.08.2012	Out-patient bills issued by Global Hospital	Rs.940
8	02.08.2012	Out-patient bills issued by Global Hospital	Rs.330

<i>S.No.</i>	<i>Date</i>	<i>Description</i>	<i>Amount</i>
9	08.09.2012	Out-patient bills issued by Global Hospital	Rs.400
10	08.09.2012	Out-patient bills issued by Global Hospital	Rs.540
11	08.09.2012	Out-patient bills issued by Global Hospital	Rs.330
12	08.05.2014	Out-patient bills issued by Global Hospital	Rs.500
13	08.05.2014	Out-patient bills issued by Global Hospital	Rs.600

(ii) Bills issued by Travel - Sl.Nos.14 to 17

<i>S.No.</i>	<i>Date</i>	<i>Description</i>	<i>Amount</i>
14	19.06.2012	Bills issued by K.R.J. Travels	Rs.4,250
15	28.06.2012	Bills issued by K.R.J. Travels	Rs.4,250
16	05.08.2012	Bills issued by K.R.J. Travels	Rs.4,250
17	08.09.2012	Bills issued by K.R.J. Travels	Rs.4,250

(iii) Salary Slip - Sl.No.18

<i>S.No.</i>	<i>Date</i>	<i>Description</i>	<i>Amount</i>
18	June 2014	Salary slip	Rs.16,335

(iv) Estimation of cost for removal of implant - Sl.No.19.

<i>S.No.</i>	<i>Date</i>	<i>Description</i>	<i>Amount</i>
19	19.07.2014	Estimation of cost for removal of implant	Rs.75,000
Total			Rs.1,92,906

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Internet: Yes/No

Index: Yes/No

Speaking order/Non-speaking order

ABDUL QUDDHOSE, J.
arb/pam

To

- 1.The Motor Accident Claims Tribunal,
Principal Sub Judge,
Puducherry.
- 2.The Section Officer,
VR Section,
Madras High Court.



C.M.A.No.3622 of 2014
and M.P.No.1 of 2014

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