

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2755 of 2018

S.Anbanathan

.. Appellant/Petitioner

Vs.

1.M.Prince Arthur

2.Iffco Tokyo General Insurance Co. Ltd.,
Kingstone Park 2nd Floor,
No.19/1, Ramalingam Nagar,
Woraiyur, Trichy 620003.

3.R.Harinarayanan

4.The Manager

Shri Ram General Insurance Co. Ltd.,
C/o.Sri Ram Transport Finance Co. Ltd.,
Cantonment, Trichy 1.

.. Respondents/Respondents

(R1, R3 & R4 NDW vide Court order dated 30/11/2018)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 21.02.2018 made in M.C.O.P.No.164 of 2016, on the file of the Principal District Court, (Motor Accidents Claims Tribunal), Perambalur.

For Appellant : Ms.C.Sangamithirai

For R2 : Mr.S.Arunkumar

RR1, 3 & 4 NDW vide Court order dated 30/11/2018

J U D G M E N T

This Civil Miscellaneous Appeal is filed for enhancement of the compensation granted by the award dated 21.02.2018 made in M.C.O.P.No.164 of 2016, on the file of the Principal District Court, (Motor Accidents Claims Tribunal), Perambalur.

2.The appellant is the claimant/petitioner in M.C.O.P.No.164 of 2016, on the file of the Principal District Court, (Motor Accidents Claims Tribunal), Perambalur. He filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for

the injuries sustained by him in the accident that took place on 05.10.2015.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the rider of the Honda Unicorn motor cycle belonging to the 1st respondent and directed the 2nd respondent, insurer of the vehicle to pay a sum of Rs.1,58,570/- as compensation to the appellant.

5.Not being satisfied with the compensation granted by the Tribunal, the appellant/claimant has come out with this appeal.

6.The learned counsel appearing for the appellant contended that the Tribunal erred in not considering the 71% permanent disability suffered by the appellant. The Tribunal ought not to have adopted the multiplier method. The Tribunal erred in calculating the future loss of income by applying the gross income of the appellant, instead of applying the monthly income earned by him. The Tribunal without properly appreciating the materials on record, has awarded compensation, which is very meager and prayed for enhancement of the same.

7.The learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal, considering the judgments of this Court has rightly applied the multiplier method, for the appellant does not suffer any functional disability. The amounts granted under different heads are excessive and prayed for dismissal of the appeal.

8.Heard the learned counsel for the appellant as well as the 2nd respondent and perused the materials available on record.

9.The learned counsel appearing for the appellant contended that the appellant was taking treatment as inpatient in Arun Hospital, Trichy from 05.10.2015 to 13.10.2015 and marked the Discharge summary as Ex.P4. The Tribunal has not granted any amount towards attender charges and extra nourishment. Considering the nature of injuries and period of treatment taken by the appellant, a sum of Rs.20,000/- each is granted under the heads of pain and suffering and extra nourishment. The Tribunal has adopted the multiplier method, without considering Ex.C1, the disability certificate, wherein the Doctor has assessed 30% disability suffered by the appellant. The Tribunal has applied multiplier without any basis as the appellant has not suffered any functional disability.Hence, the amounts granted under the head of loss of income is set aside and a sum of Rs.90,000/- [Rs.30,000/- x 30%] is granted under the said head. The amounts granted by the Tribunal in all other heads are just and reasonable and they are hereby confirmed. Thus, the compensation

awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	54,000/-	90,000/-	enhanced
2.	Pain and suffering	-	20,000/-	granted
3.	Extra nourishment	-	20,000/-	granted
4.	Medical expenses	89,570/-	89,570/-	confirmed
5.	Transport charges	15,000/-	15,000/-	confirmed
	Total	1,58,570/-	2,34,570/-	Enhanced by Rs.76,000/-

10. In the result, the appeal is partly allowed and award granted by the Tribunal is enhanced to Rs.2,34,570/- with interest and costs. The 2nd respondent-Insurance Company is directed to deposit the award amount with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.164 of 2016. On such deposit, the appellant is permitted to withdraw the award amount with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

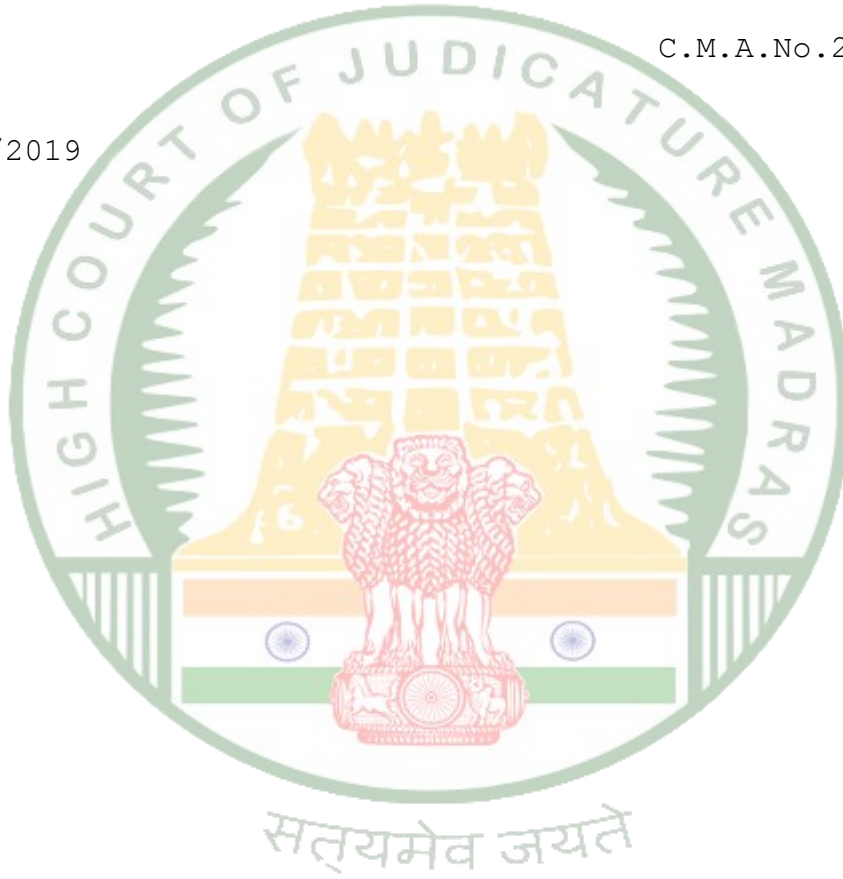
1.The Principal District Judge,
(Motor Accidents Claims Tribunal), Perambalur.

2.The Section Officer, VR section,
High Court, Madras-104.

+1cc to Ms.C.Sangamithirai, Advocate sr.88672
+1cc to Mr.S.Arunkumar, Advocate Sr.89904

C.M.A.No.2755 of 2018

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