

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2546 of 2018

M.Suresh

.. Appellant /Claimant

Vs.

1.E.Anbalagan

2.United India Insurance Co. Ltd.,
135, Silingi Building,
No.134, Greams Road,
Chennai 600 006. .. Respondents/Respondents
(R1 set exparte before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 29.06.2018 made in M.C.O.P.No.1143 of 2015 on the file of the Special Sub Court No.1, (Motor Accident Claims Tribunal), Small Causes Court, Chennai.

For Appellant : Mr.S.Ravikumar

For R2 : Mr.P.Sankaranarayan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of the compensation granted by the award dated 29.06.2018 made in M.C.O.P.No.1143 of 2015 on the file of the Special Sub Court No.1, (Motor Accident Claims Tribunal), Chennai.

2.The appellant is the claimant in M.C.O.P.No.1143 of 2015 on the file of the Special Sub Court No.1, (Motor Accident Claims Tribunal), Chennai. He filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries suffered by him in the accident that took place on 04.01.2015.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to

the rash and negligent driving by the driver of the car belonging to the 1st respondent and 2nd respondent, as insurer of the vehicle is liable to pay the compensation and awarded a sum of Rs.1,20,000/- as compensation to the appellant.

4. Not being satisfied with the amount granted by the Tribunal, the appellant has come out with this appeal.

5. The learned counsel appearing for the appellant contended that the appellant sustained injury and suffered 30% disability. The Doctor who was examined as P.W.2 has deposed that appellant sustained the disability of 30%. However, the Tribunal has reduced the same to 10%, only on the ground that P.W.2 Doctor was not the Doctor who treated him and P.W.2 has not filed any working sheet. The amounts awarded under the heads of pain and suffering, extra nourishment, transportation and loss of earning are meager and prayed for enhancement of the compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering the entire materials on record and the fact that though the appellant suffered fracture, he was only treated as out patient, has rightly reduced the percentage of disability to 10%. The compensation granted by the Tribunal is on higher side and prayed for dismissal of the appeal.

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

8. From the materials on record, it is seen that appellant as P.W.1 has deposed the manner in which the accident had occurred. FIR, marked as Ex.P1, was registered against the driver of the car belonging to the 1st respondent. No contra evidence was let in by the respondents to disprove the accident. Considering all the materials on record, the Tribunal came to the conclusion that the driver of the car belonging to the 1st respondent was responsible for the accident and held that the 2nd respondent, as the insurer of the vehicle is liable to pay compensation to the appellant. There is no error in the said finding of the Tribunal, warranting interference by this Court.

9. As far as the quantum of compensation is concerned, P.W.2, Doctor has assessed the percentage of disability as 30%. The Tribunal has reduced the same to 10% and awarded a sum of Rs.30,000/- towards disability, by fixing Rs.3,000/- per percentage of disability. Considering the injury sustained by the appellant and the assessment of P.W.2

Doctor, the percentage of disability fixed by the Tribunal is modified as 20% and a sum of Rs.60,000/- is granted towards disability, by granting Rs.3,000/- per percentage of disability. The amounts granted under different heads are not meager and there is no need to enhance the same. 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.	Disability	30,000	60,000	enhanced
2.	Pain and suffering	15,000	15,000	confirmed
3.	Extra nourishment	10,000	10,000	confirmed
4.	Transportation	5,000	5,000	confirmed
5.	Loss of earnings	40,000	40,000	confirmed
6.	Loss of future prospects	20,000	20,000	confirmed
	Total	1,20,000	1,50,000	Enhanced by Rs.30,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,20,000/- is hereby enhanced to Rs.1,50,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The 2nd respondent-Insurance Company is directed to deposit the enhanced 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. On such deposit, the appellant is permitted to withdraw the enhanced award amount, less the amount if any, already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/--

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

gsa

To

1. United India Insurance Co. Ltd.,
135, Silingi Building,
No.134, Greams Road,
Chennai 600 006.

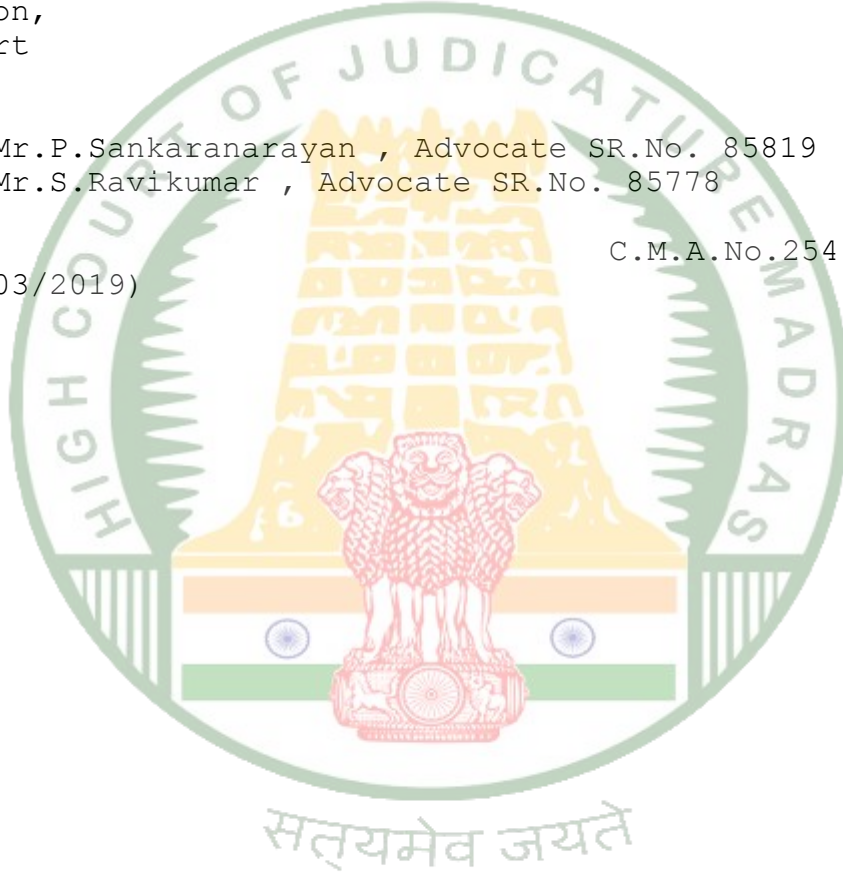
2. The Special Subordinate Judge-1,
(Motor Accident Claims Tribunal), Chennai. .

3. The section officer,
VR Section,
High court
Madras

+1cc to Mr.P.Sankaranarayan , Advocate SR.No. 85819
+1cc to Mr.S.Ravikumar , Advocate SR.No. 85778

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A.SK(13/03/2019)



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