



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2018

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A(MD)Nos.857 to 860 of 2018

C.M.A(MD)No.857 of 2018

Murugaiah

... Appellant/Petitioner

Vs .

1. The Proprietor,
Liberty Carriers,
63/1-A, Muttukkadu Road,
Neelankarai,
Chennai.

2. The Manager,
The Oriental Insurance Company Limited,
Chola Towers, Second Floor,
7, Nungambakkam High Road,
Chennai.

3. Manokaran

4. The Manager,
The United India Insurance
Company Limited,
463-First Floor,
V.O.C.Salai,
Karaikudi.

... Respondents/Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside so far as the quantum of award concerned and enhance the award amount from Rs.2,000/- to that of Rs.50,000/- as original claim in the above M.C.O.P.No.172 of 2003, dated 29.07.2005 on the file of the Subordinate Judge (Motor Accidents Claims Tribunal), Pudukkottai.

For Appellant	: Mr.S.Ramesh
For R1	: No appearance
For R2	: Mr.K.Bhaskaran
For R4	: Mr.A.Shajahan

**C.M.A(MD)No.858 of 2018**

S.P.Ramamirtham

... Appellant/Petitioner

WEB COPY

Vs.

1. The Proprietor,
Liberty Carriers,
63/1-A, Muttukkadu Road,
Neelankarai,
Chennai.
2. The Manager,
The Oriental Insurance Company Limited,
Chola Towers, Second Floor,
7, Nungambakkam High Road,
Chennai.
3. Manokaran
4. The Manager,
The United India Insurance
Company Limited,
463-First Floor,
V.O.C.Salai,
Karaikudi.

... Respondents/Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside so far as the quantum of award concerned and enhance the award amount from Rs.64,000/- to that of Rs.2,00,000/- as original claim in the above M.C.O.P.No.174 of 2003, dated 29.07.2005, on the file of the Subordinate Judge (Motor Accidents Claims Tribunal), Pudukkottai.

For Appellant	: Mr.S.Ramesh
For R1	: No appearance
For R2	: Mr.K.Bhaskaran
For R4	: Mr.A.Shajahan

C.M.A(MD)No.859 of 2018

Amutha

... Appellant/Petitioner

Vs.

1. The Proprietor,
Liberty Carriers,
63/1-A, Muttukkadu Road,
Neelankarai,
Chennai.



2. The Manager,
The Oriental Insurance Company Limited,
Chola Towers, Second Floor,
7, Nungambakkam High Road,
Chennai.

3. Manokaran

4. The Manager,
The United India Insurance
Company Limited,
463-First Floor,
V.O.C.Salai,
Karaikudi.

... Respondents/Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside so far as the quantum of award concerned and enhance the award amount from Rs.74,529/- to that of Rs.2,00,000/- as original claim in the above M.C.O.P.No.175 of 2003, dated 29.07.2005, on the file of the Subordinate Judge (Motor Accidents Claims Tribunal), Pudukkottai.

For Appellant	: Mr.S.Ramesh
For R1	: No appearance
For R2	: Mr.K.Bhaskaran
For R4	: Mr.A.Shajahan

C.M.A(MD)No.860 of 2018

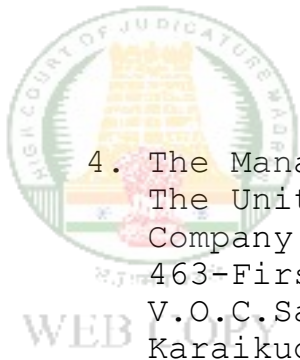
Minor Saravanakumar
(Represented through his guardian/
Mother Mohanapriya)

... Appellant/Petitioner

Vs.

1. The Proprietor,
Liberty Carriers,
63/1-A, Muttukkadu Road,
Neelankarai, Chennai.

2. The Manager,
The Oriental Insurance Company Limited,
Chola Towers, Second Floor,
7, Nungambakkam High Road,
Chennai.



4. The Manager,
The United India Insurance
Company Limited,
463-First Floor,
V.O.C.Salai,
Karaikudi.

... Respondents/Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside so far as the quantum of award concerned and enhance the award amount from Rs.1,01,265/- to that of Rs.2,00,000/- as original claim in the above M.C.O.P.No.177 of 2003, dated 29.07.2005, on the file of the Subordinate Judge (Motor Accidents Claims Tribunal), Pudukkottai.

For Appellant	: Mr.S.Ramesh
For R1	: No appearance
For R2	: Mr.K.Bhaskaran
For R4	: Mr.A.Shajahan

COMMON JUDGMENT

All the appeals filed against the common award, dated 29.07.2005, passed by the Motor Accident Claims Tribunal, Sub Court, Pudukkottai, in M.C.O.P.Nos.172, 174, 175 & 177 of 2003. Hence, all the appeals are heard together and disposed of by this common judgment.

2.By consent of both parties, the Civil Miscellaneous Appeals are taken up for final disposal.

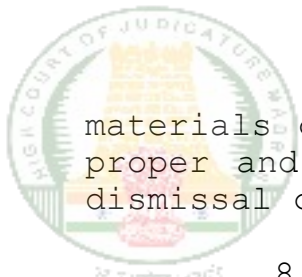
3.All the appeals are filed by the claimants for enhancement of compensation. The parties are referred to as per their rank in the claim petitions.

4.The Tribunal, considering the pleadings, oral and documentary evidence let in by the parties, held that the accident occurred due to rash and negligent driving by the driver of the vehicle belonging to the first respondent insured with the second respondent and granted compensation directing the respondents 1 & 2 to pay the said amounts to the claimants/appellants.

5.Not being satisfied with the said award, the claimants have filed the present Civil Miscellaneous Appeals for enhancement of compensation.

6. The learned counsel appearing for the appellants contended that the Tribunal without properly appreciating the materials on record, granted meagre amounts as compensation and awarded compensation on consolidated basis and prayed for enhancement of compensation.

7.Per Contra, learned counsel appearing for the second respondent contended that the Tribunal after considering all the



materials on record, awarded compensation and the same is just and proper and there is no need for enhancing the same and prayed for dismissal of all the appeals.

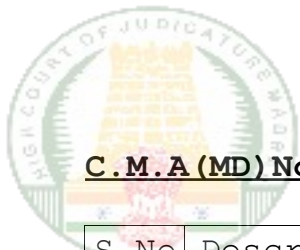
8.I have heard the learned counsel appearing for the appellants and the respondents 2 & 4 and perused the materials available on record. Though the first respondent entered appearance through counsel, there is no representation. The third respondent remained ex-parte before the Tribunal.

9.From the materials on record, it is seen that the compensation awarded by the Tribunal in all the claim petitions is meagre and it has to be enhanced. As far as claimants in C.M.A(MD) No.857 of 2018 is concerned, the Tribunal has granted a consolidated amount of Rs.2,000/- as compensation. The appellant was in hospital from 03.08.2001 to 09.08.2001 and was taking treatment as inpatient for 7 days. The appellant in C.M.A(MD)No.858 of 2018 was taking treatment from 03.08.2001 to 13.08.2001. The appellant in C.M.A(MD) No.859 of 2018 was taking treatment from 03.08.2001 to 13.08.2001. The appellant in C.M.A(MD)No.860 of 2018 was taking treatment from 03.08.2001 to 29.08.2001. The Tribunal did not award any amount towards attendant charges and loss of income except in one case. The amount granted for pain and suffering and extra nourishments are also too meagre.

10. In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-

C.M.A(MD)No.857 of 2018

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Consolidated award amount	2,000		Set aside
2.	For Pain and suffering		5,000	awarded
3.	Attendant Charges		2,000	awarded
4.	For extra nourishment		5,000	awarded
5.	For Injuries		7,000	awarded
	Total	Rs.2,000	Rs.19,000	By enhancing a sum of Rs.17,000/-

**C.M.A (MD) No.858 of 2018**

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For disability	39,000	78,000	enhanced
2.	For Pain and suffering	20,000	20,000	confirmed
3.	Extra nourishment	5,000	5,000	confirmed
	Total	Rs.64,000	Rs.1,03,000	By enhancing a sum of Rs.39,000/-

C.M.A (MD) No.859 of 2018

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For Disability	36,000	72,000	enhanced
2.	For Pain and sufferings and loss of income	20,000	20,000	confirmed
3.	For extra nourishment	5,000	5,000	confirmed
4.	For Transportat ion	5,000	5,000	confirmed
5.	For Medical expenses	8,529	8,529	confirmed
	Total	Rs.74,529	Rs.1,10,529	By enhancing a sum of Rs.36,000/-

**C.M.A(MD)No.860 of 2018**

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For Disability	30,000	1,00,000	enhanced
2.	For Pain and sufferings and loss of income	15,000	15,000	confirmed
3.	For extra nourishment	5,000	5,000	confirmed
5.	For Medical expenses	31,265	31,265	confirmed
	Total	Rs.81,265	Rs.1,51,265	By enhancing a sum of Rs.70,000/-

11.With the above modification, all the appeals are partly allowed. The respondents 1 & 2 are directed to deposit the award amounts along with accrued interest at the rate of 9% p.a., and costs, less the amount already deposited, if any, to the credit of respective claim petitions, on the file of the Motor Accidents Claim Tribunal, Sub Court, Pudukkottai, within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit being made, the appellants/claimants in C.M.A(MD)Nos.857 to 859 of 2018 are entitled to withdraw the award amount with proportionate interest and costs by filing necessary application before the Tribunal.

12.In respect of C.M.A(MD)No.860 of 2008 is concerned, the appellant is minor and the Tribunal shall deposit the award amount in any one of the Nationalized banks in a Fixed Deposit, initially for a period of three years and renewable thereafter, till the minor attains majority. The mother of the appellant is permitted to withdraw the accrued interest once in three months directly from the bank. No costs.

13.The appellants are not entitled to interest for the delay period with regard to enhanced amount.

Sd/-

Assistant Registrar (CS-III)



To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Pudukkottai.

2. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.V.RAGHAVACHARI, ADVOCATE IN SR No. 88057

+ 4 CC TO Mr.K.BHASKARAN, ADVOCATE IN SR No. 87798 to 87801

AM

TE/SKN/SAR-1 : 22/01/2019 : 8P/9C

C.M.A (MD) Nos.857 to 860 of 2018
27.09.2018