

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2019

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

C.M.A.No.344 of 2008

Sivakumar

... Appellant/Claimant

Vs.

1.Venkatachalam

2.The Manager,
United India Insurance Co. Ltd.,
Jawharlal Nehru Street,
Villupuram.

... Respondents/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.06.2001 made in M.C.O.P.No.838 of 1994 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Villupuram.

For Appellant : Mr.V.Srinivasan
R1 : Died
For R2 : Mrs.R.Sreevidhya

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the claimant, for enhancement of compensation awarded by the 'Motor Accident Claims Tribunal (Principal District Court), Villupuram' (hereinafter 'the Tribunal' for brevity) vide judgment and decree dated 25.06.2001 in M.C.O.P.No.838 of 1994.

2.According to the appellant/claimant that on 22.03.1993 midnight, he was travelling in a tractor as a cleaner. When the tractor was nearing Elango Rice Mill at Pandur, due to rash and negligent driving on the part of the driver of the tractor, the appellant/claimant was thrown out from the vehicle and he sustained injuries on head, hands and legs and also fracture on temporal region. Immediately, he was admitted in JIPMER Hospital, Pondicherry, as in-patient. Later, he filed a claim petition, claiming a compensation of Rs.30,000/-. The Tribunal, after considering the case of the claimant, awarded a total compensation of Rs.10,000/- with interest @ 9% p.a. from the date of claim petition. Being dissatisfied with the quantum

of compensation so awarded by the Tribunal, the appellant has preferred this appeal, seeking enhancement.

3.The learned counsel for the appellant submitted that without considering the grievous head injuries, facial disfiguration and permanent disability of 35% sustained by the appellant, the Tribunal has awarded a meagre sum of Rs.10,000/- as compensation and hence, the same has to be enhanced substantially.

4.Per contra, learned counsel appearing on behalf of the 2nd respondent Insurance Company submitted that the Tribunal has considered all the evidence and materials on record and has awarded a just compensation and hence, the same does not call for any interference by this Court.

5.Heard the learned counsel on either side and carefully perused the materials available on record.

6.This is the claimant's appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, there is no requirement to go into the aspect of the negligence as well as the liability fastened on the second respondent insurance company to pay compensation.

7.As regards the quantum of compensation, the Tribunal has taken into consideration the evidence of PW1/appellant/claimant and P.W.2/doctor, who issued Ex.A5 disability certificate to the tune of 35% and also Ex.P4 discharge slip, as per which, the appellant/claimant was found with badly sutured lacerated wound 20 x 2 cm from left temporal region. However, the Tribunal has awarded only a paltry sum of Rs.5,000/- towards pain and suffering, which, in the considered opinion of this Court, is inadequate and the same is hereby enhanced to Rs.15,000/-. However, the compensation awarded under other heads viz., Rs.2,000/- towards extra nourishment, Rs.2,000/- towards loss of income and Rs.1,000/- towards conveyance charges are just and reasonable and the same are hereby confirmed.

8.In the ultimate analysis, this appeal is allowed in part, by enhancing the compensation awarded by the Tribunal from Rs.10,000/- to Rs.20,000/-. The enhanced sum of Rs.10,000/- shall carry interest at 7.5%p.a. from the date of filing of this appeal.

9.The 2nd respondent Insurance Company is directed to deposit the modified compensation amount along with interest, after deducting the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall

transfer the amount lying in the deposit to the savings bank account of the appellant/claimant through RTGS within a period of one week thereafter. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mkn/rk
To

1.The Motor Accident Claims Tribunal,
Principal District Judge,
Villupuram.

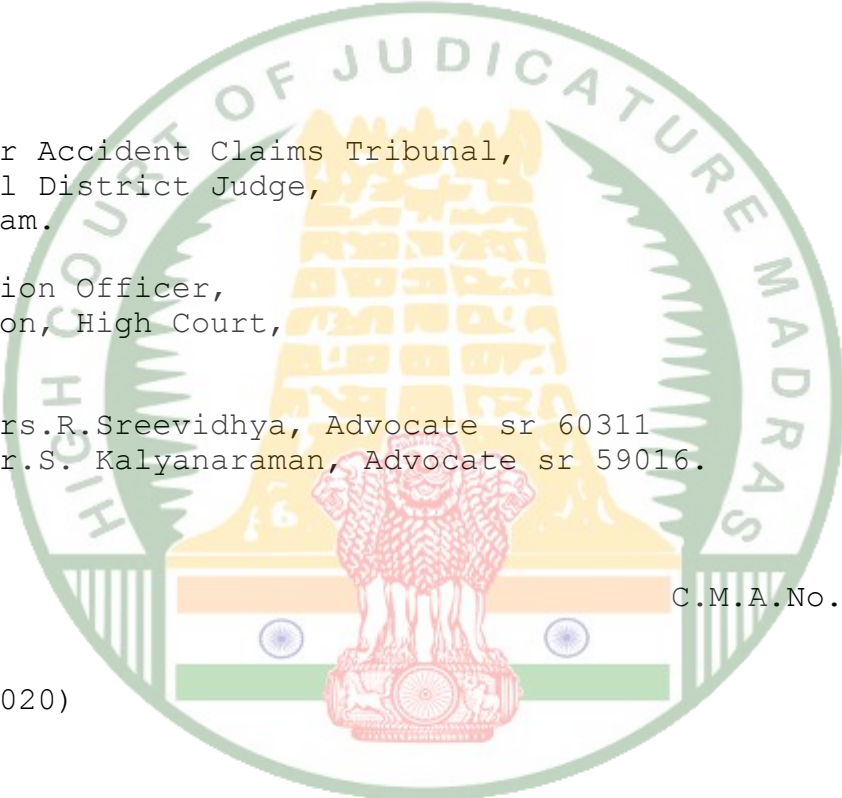
2.The Section Officer,
VR Section, High Court,
Madras.

+1 CC to Mrs.R.Sreevidhya, Advocate sr 60311

+1 CC to Mr.S. Kalyanaraman, Advocate sr 59016.

PVS (CO)
SP(10/09/2020)

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