

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1321 of 2011

Minor. Velan

Rep. by next friend Lakshmi

..Appellant / Petitioner

...Vs...

1. M/s.South India Corporation Ltd.,
Rani Seethai Hall, 6th Floor,
No.603, Anna Salai,
Chennai - 600 008.

2. The Oriental Insurance Company Limited,
Dagul Buildings, No.8, Esplanade,
Chennai - 600 108

..Respondents/Respondents

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 20.11.2008 made in M.C.O.P.No.225 of 2005 on the file of the Motor Accidents Claims Tribunal (Principal Sub Court), Cuddalore.

For Appellant : Mr.C.Senthil Nathan
For R-1 : Ex-parte
For R-2 : Mr.M.Krishnamoorthy

JUDGMENT

The claimant is the appellant herein, challenging the award dated 20.11.2008 on the file of the Motor Accidents Claims Tribunal, [Principal Sub Judge], Cuddalore, in M.C.O.P.No.225 of 2005.

2. The accident in this case happened on 14.05.2004 at about 4.30 p.m. near Radhakrishnan Garden Road at Kattukollai village. On the date of the accident, the claimant and his father-in-law were proceeding from North to South in the Cement road towards their land from Kattukollai village and when they were nearing Radhakrishnan Garden, a Tipper Lorry bearing Registration No.TN-01-W-5906, which belonging to the first respondent, came from behind driven rashly and negligently by its driver and dashed against the claimant. As a result of which, the claimant sustained multiple injuries throughout his body. Immediately

after the accident, the claimant was taken to Kurinjipadi Government Hospital and thereafter shifted to Government Head Quarter hospital at Cuddalore. For the injuries sustained by him, he has filed a claim petition claiming a sum of Rs.5,00,000/- as compensation.

3. Before the Tribunal, on behalf of the injured/claimant, P.Ws.1 to 3 were examined and Exs.P.1 to P.10 were marked. No witness was examined and no document was marked on the side of the respondents before the Tribunal.

4. According to the claimant, after discharge from the Government Head Quarters Hospital at Cuddalore, as he was not well, he has taken treatment at private hospital and thereafter, he has taken treatment in the Chidambaram Medical College Hospital and he has also filed documents to that effect.

5. The Tribunal, on considering the fact that the injured/claimant, who was aged about 12 years, sustained nine simple injuries, awarded a sum of Rs.27,000/- under various heads as compensation. Having not satisfied with the award passed by the Tribunal, the injured/claimant has preferred this appeal for enhancement of compensation.

6. Learned counsel appearing for the appellant/claimant has stated that the injured/claimant has sustained fracture in the spinal cord and the same was duly corroborated by the evidence of P.W.3-Dr.Chandiran, who had issued Ex.P.9-Disability Certificate.

7. It appears from the judgment of the Tribunal that the evidence of P.W.3 was not accepted on the ground that there was no link between the injuries said to have been projected with that of the accident. After going through the records and also taking note of the injuries noted in Ex.P.6-Accident Register copy, Ex.P.7-Discharge Summary issued by the Government Hospital at Cuddalore and Ex.P.9-Permanent Disability Certificate, this Court is of the view that it is just and necessary to award a sum of Rs.25,000/- towards the injuries sustained by the claimant and accordingly, a consolidated amount of Rs.25,000/- is awarded under the said head. The amounts awarded by the Tribunal under the other heads are found to be reasonable and hence, they are confirmed.

8. Accordingly, the award of the Tribunal stands enhanced as follows:-

Sl. No.	Head	Amount awarded by the Tribunal	Amount granted by this Court
1.	Compensation for simple injuries	Rs. 9,000/-	Rs. 25,000/-
2.	Future Medical expenses	Rs. 1,000/-	Rs. 1,000/-
3.	Transport charges	Rs. 5,000/-	Rs. 5,000/-
4.	Extra Nourishment	Rs. 5,000/-	Rs. 5,000/-
5.	Attender charges	Rs. 2,000/-	Rs. 2,000/-
6.	Pain and Sufferings and mental agony	Rs. 5,000/-	Rs. 5,000/-
	Total	Rs. 27,000/-	Rs. 43,000/-

9. In the result,

- I. This Civil Miscellaneous Appeal is allowed enhancing the compensation from Rs.27,000/- to Rs.43,000/- with proportionate costs.
- II. The interest granted by the Tribunal at 7.5% stands confirmed.
- III. The second respondent-Insurance Company is directed to deposit the enhanced amount within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.
- IV. On such deposit being made, the appellant/claimant is permitted to withdraw the entire award amount with proportionate interest, less the amount already withdrawn, if any.
- V. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation.
- VI. No order as to costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Jr1

To

1. The Principal Sub Court,
The Motor Accidents Claims Tribunal,
Cuddalore.

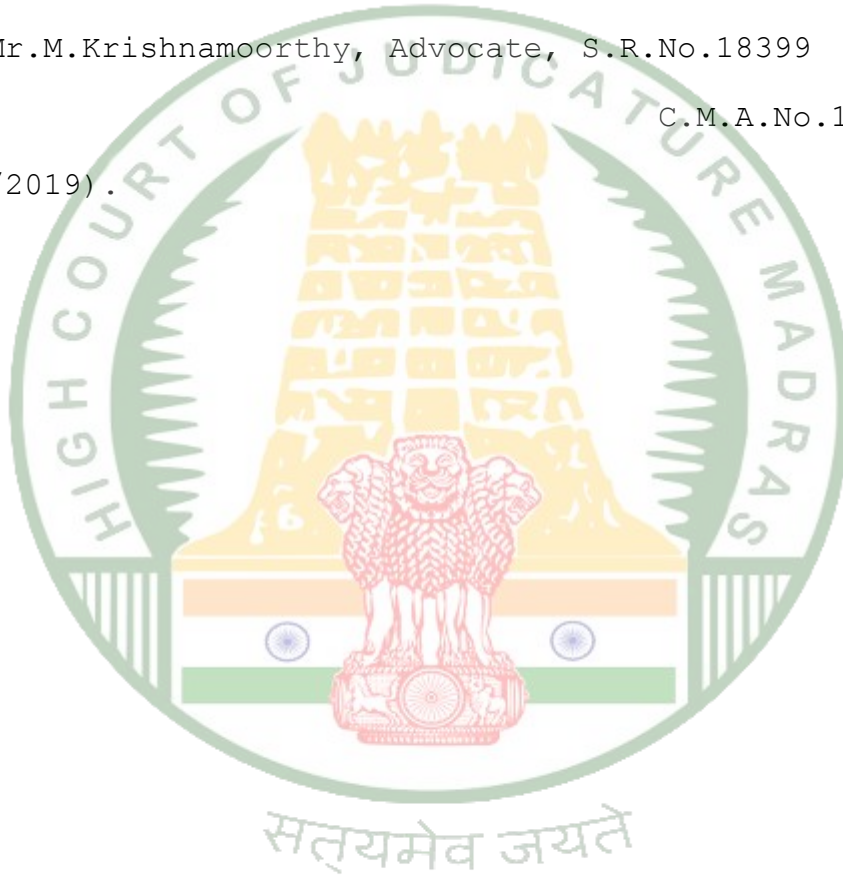
2. The Section Officer,
V.R. Section, High Court,
Madras.

+1 cc to Mr.C.Senthil Nathan, Advocate, S.R.No.19231

+1 cc to Mr.M.Krishnamoorthy, Advocate, S.R.No.18399

C.M.A.No.1321 of 2011

PN(CO)
SSM(11/06/2019).



WEB COPY