

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.1182 OF 2015

Ramalingam

.. Appellant/Claimant

Vs.

1. The Managing Partner,  
M/s.Ashique Enterprises,  
Kozhikode, Kerala State.  
(R1 was set exparte in the Trial Court)
2. The Divisional Manager,  
Reliance General Insurance Co. Ltd.,  
Bamer Lawne House, No.628, Anna Salai,  
Chennai. .. Respondents/Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 23.12.2014, made in M.C.O.P.No.68 of 2014, on the file of the Principal District Court, (Motor Accident Claims Tribunal), Villupuram.

For Appellant : Mr.R.Arundattan  
for Mr.C.Munuswamy

For Respondents: Mr.S.Arunkumar (for R2)

सत्यमेव जयते  
J U D G M E N T  
WEB COPY

This Civil Miscellaneous Appeal has been filed by the appellant-claimant, seeking enhancement of the compensation granted by the award dated 23.12.2014, made in M.C.O.P.No.68 of 2014, on the file of the Principal District Court, (Motor Accident Claims Tribunal), Villupuram.

2.The appellant is claimant in M.C.O.P.No.68 of 2014, on the file of the Principal District Court, (Motor Accident Claims Tribunal), Villupuram. 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 24.02.2009.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the lorry belonging to the 1<sup>st</sup> respondent and directed the 2<sup>nd</sup> respondent as insurer of the vehicle to pay a sum of Rs.3,70,000/- as compensation to the appellant.

4.Not being satisfied with the amounts awarded by the Tribunal in the award dated 23.12.2014, made in M.C.O.P.No.68 of 2014, the appellant has come out with the present appeal.

5.Learned counsel appearing for the appellant contended that due to the accident, the appellant suffered amputation of right leg above knee besides other severe injuries. P.W.2-Doctor assessed 85% permanent disability for the injuries sustained by the appellant. For the injuries sustained in the accident, the appellant has taken treatment as in-patient in Government General Hospital, Tirukoilur and the Government Hospital, Puducherry. The Tribunal without considering the same, has not awarded any amount towards attendant charges, mental agony, loss of amenities and loss of clothes. The Tribunal taking into consideration the amputation of the limb, ought to have awarded compensation for loss of earning power. In any event, the total compensation awarded by the Tribunal is meagre and prayed for enhancement of the same.

6.Per contra, learned counsel appearing for the 2<sup>nd</sup> respondent contended that the Tribunal considering Ex.P7-Disability Certificate and oral evidence of P.W.2-Doctor, fixed 85% permanent disability and awarded Rs.1,70,000/- towards disability at the rate of Rs.2,000/- per percentage, which is not meagre. The Tribunal has awarded a lumpsum amount of Rs.70,000/- towards extra nourishment, transport and medical expenses. Hence, the total compensation awarded by the Tribunal is not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7. Heard learned counsel appearing for the appellant as well as the 2<sup>nd</sup> respondent and perused the materials available on record.

8. From the materials on record, it is seen that the appellant has contended that he was working as a mason and earning a sum of Rs.10,000/- per month. Due to the accident, the appellant suffered amputation, crush injuries and other injuries all over the body. P.W.2-Doctor has assessed that the appellant sustained 85% disability and issued Disability Certificate, which was marked as Ex.P7. The appellant contended that he was working as Mason and after amputation of his right leg, he could not do the work and he lost total earning power. Considering the nature of work done by the appellant earlier and 85% disability sustained, the appellant is entitled to compensation by adopting multiplier method. The appellant contended that he was earning a sum of Rs.10,000/- per month. He failed to substantiate the same. The accident is of the year 2009. A sum of Rs.6,500/- per month is fixed as notional income of the appellant. The appellant was aged 40 years at the time of accident. The correct multiplier applicable is '15'. As per the judgment of the Division Bench of this Court reported in 2005 1 CTC 38 (United India Insurance Company vs. Veluchamy), lesser multiplier can be applied while awarding compensation to the injured claimant by adopting multiplier method. Therefore, applying multiplier '10', the amount awarded by the Tribunal towards disability is modified to Rs.6,63,000/- (Rs.6,500/- X 12 X 10 X 85%). The appellant has taken treatment as in-patient in Government General Hospital, Tirukoilur and Government Hospital, Puducherry. The Tribunal has not awarded any amount towards attendant charges, loss of amenities and loss of clothes. The appellant is entitled to a sum of Rs.20,000/-, Rs.25,000/- and Rs.1,000/- under the said heads respectively. Considering the nature of injuries, disability and treatment taken by the appellant, the sum of Rs.30,000/- granted by the Tribunal towards pain and suffering is meagre. The same is enhanced to Rs.50,000/-. Tribunal has granted a lumpsum amount of Rs.70,000/- towards extra nourishment, transport and medical expenses, which is meagre. The same is enhanced to Rs.1,00,000/-. The amounts awarded by the Tribunal under the head, loss of income is just and reasonable and the same is 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 on disability                              | 1,70,000/-                      | 6,63,000/-                        | enhanced                               |
| 2.   | Loss of income                                  | 1,00,000/-                      | 1,00,000/-                        | confirmed                              |
| 3.   | Extra nourishment, transport & medical expenses | 70,000/-                        | 1,00,000/-                        | enhanced                               |
| 4.   | Pain and sufferings                             | 30,000/-                        | 50,000/-                          | enhanced                               |
| 5.   | Attender charges                                | -                               | 20,000/-                          | granted                                |
| 6.   | Loss of amenities                               | -                               | 25,000/-                          | granted                                |
| 7.   | Loss of clothes                                 | -                               | 1,000/-                           | granted                                |
|      | Total                                           | 3,70,000/-                      | 9,59,000/-                        | Enhanced by Rs.5,89,000/-              |

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.3,70,000/- is enhanced to Rs.9,59,000/- along with interest and costs. The 2<sup>nd</sup> respondent is directed to deposit the enhanced award amount along with interest and costs, now determined by this Court, 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.68 of 2014. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. No costs.

WEB COPY  
Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa

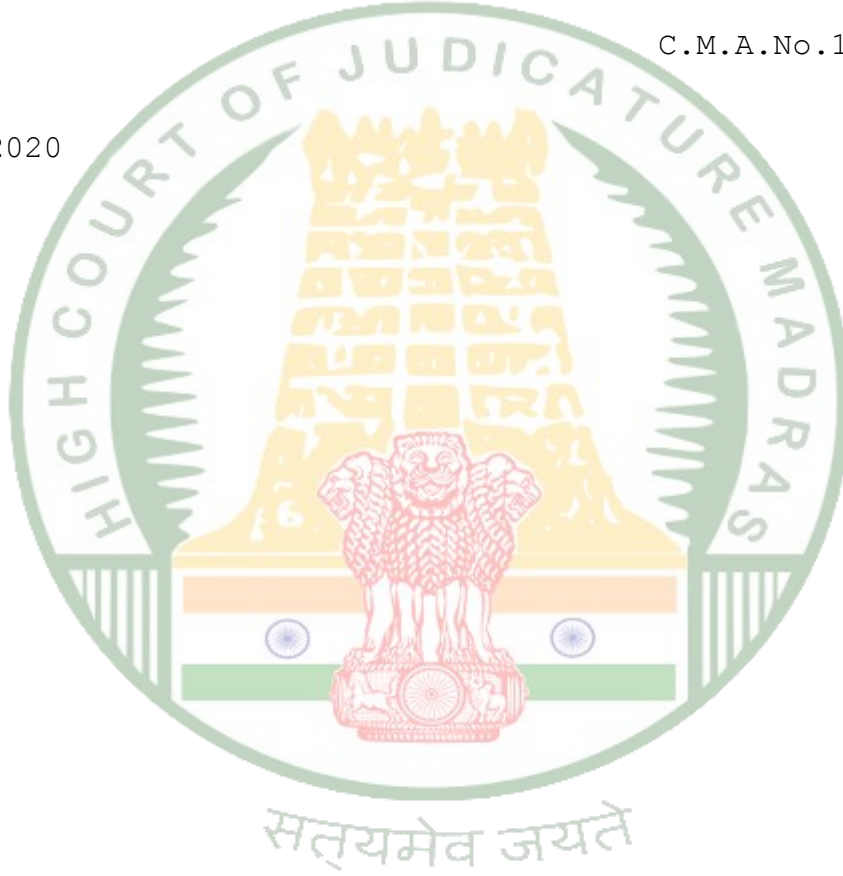
To

1. The Principal District Judge,  
(Motor Accident Claims Tribunal),  
Villupuram.
2. The Section Officer,  
V.R Section,  
High Court, Madras.

+lcc to Mr.C.Munuswamy, Advocate, S.R.No.101272  
+lcc to Mr.S.Arunkumar, Advocate, S.R.No.101738

C.M.A.No.1182 of 2015

RSV(CO)  
CS/29/09/2020



WEB COPY