

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3382 of 2009

A.Selvam

.. Appellant /Petitioner

Vs.

1. K. Ramanaiah

(R1 was set exparte before the Tribunal)

2. New India Assurance Co., Ltd.,

No.45, Moore Street,

Chennai - 600 001.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 29.12.2008 made in M.C.O.P.No.161 of 2004, on the file of the Motor Accidents Claims Tribunal, (V Small Causes Court) Chennai.

For Appellant : Mr.N.M.Muthurajan

For R2 : Mr.P.G.Padmanabhan

J U D G M E N T

Being dissatisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present Civil Miscellaneous Appeal, seeking enhancement of the same.

2.According to the appellant/claimant, on 24.10.2003 about 20.00 hours, he was traveling as carrier rider in cycle from Cathedral Road to T.Nagar along Anna Salai. While he was proceeding opposite to Canara Bank, Teynampet, a Car bearing Regn.No.TN-01-V-6399 belonging to the first respondent and insured with the second respondent, came in a rash and negligent manner and hit the cycle from behind. As a result of the same, the appellant sustained grievous injuries, for which, he filed a claim petition, claiming compensation of Rs.7,00,000/-. The Tribunal, after considering the oral and documentary evidence, awarded a compensation of Rs.73,000/- with interest at 7.5% per annum from the date of petition. Challenging the same, the

appellant is before this Court with the present appeal seeking enhancement of the compensation awarded by the Tribunal.

3.The learned counsel for the appellant/claimant submitted that the Tribunal has awarded a lesser sum of Rs.44,000/- towards 40% permanent disability and the same needs to be enhanced. The learned counsel further submitted that the compensation awarded under other heads are also very meagre and hence, the same has to be enhanced substantially.

4.Per contra, the learned counsel for the third respondent/insurance company submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and 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 for this Court to go into the findings of the Tribunal on negligence and the liability of the second respondent to pay compensation to the claimant.

7.The appellant/claimant himself examined as P.W.1, who deposed that in the accident, he has suffered pubic ramus fracture and ileum fracture, besides receiving multiple injuries all over the body; he was 47 year old and was earning Rs.10,000/- per month as Mason; and he took treatment as in-patient at Government General Hospital, Chennai from 24.10.2003 to 28.10.2003. P.W.1 further deposed that due to the disability sustained in the accident, he could not do his avocation as before and he finds discomfort to bend, lift heavy object, walk fast and climb and he has been taking treatment continuously. The doctor, who treated the appellant/claimant, was examined as P.W.2. According to him, the appellant/claimant sustained 40% permanent disability; Ex.P13 is the X-ray; and Ex.P14 is the disability certificate.

8.This Court, considering the materials and evidence adduced by the appellant/claimant and taking note of the nature of the injuries sustained by him, is of the view that the total compensation of Rs.73,000/- awarded by the Tribunal is on the lower side and the same is enhanced to the extent as indicated below:

Head	Compensation awarded by the Tribunal (Rs.)	Compensation enhanced by this Court (Rs.)
Permanent disability at 40%	44,000/-	84,000/-
Medical Expenses	5,000/-	25,000/-
Loss of earning during the treatment period	9,000/-	10,000/-
Transportation	5,000/-	5,000/-
Extra nourishment	5,000/-	5,000/-
Pain and suffering	5,000/-	25,000/-
Attendant charges	----	2,000/-
Total	73,000/-	1,56,000/-

9. In view of the above, the award of the Tribunal is enhanced from Rs.73,000/- to Rs.1,56,000/-. However, it is made clear that the enhanced sum of Rs.83,000/- (Rs.1,56,000/- (-) Rs.73,000/-) shall carry interest at 7.5% p.a. only from the date of filing of this appeal.

10. In the result, this appeal is partly allowed. No costs. The second respondent/Insurance Company is directed to deposit the entire compensation amount as awarded by this Court, with interest and costs, after deducting the amount, if any, already deposited, 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 same to the savings bank account of the appellant/claimant, through RTGS within a period of one week thereafter.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

av

To

1. The V Judge,
Motor Accidents Claims Tribunal,
Small Causes Court, Chennai.

WEB COPY

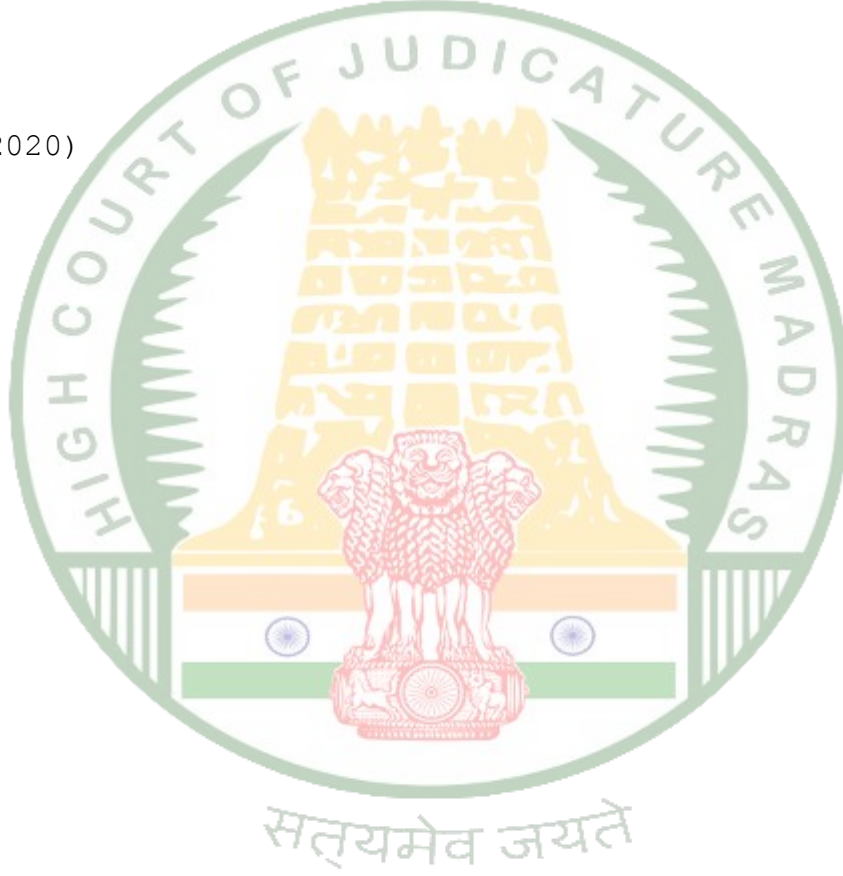
Copy To

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

+1cc to Mr.N.M.Muthurajan, Advocate, S.R.No. 71040
+1cc to Mr.P.G.Padmanathan, Advocate, S.R.No. 70514

C.M.A.No.3382 of 2009

MP (CO)
GN(01/09/2020)



WEB COPY