

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.1310 of 2015

K.Murugavel

.. Appellant

Vs.

1.S.Senthilkumaran

2.National Insurance Company Limited,
No.751, Anna Salai, 3rd Floor,
Chennai - 600 002.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.02.2015 made in M.C.O.P.No.4183 of 2012 on the file of Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.Richard Suresh Kumar

For R1 : Died

For R2 : Mr.G.Udaya Sankar

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 24.02.2015 made in M.C.O.P.No.4183 of 2012 on the file of Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.4183 of 2012 on the file of Motor Accident Claims Tribunal, II Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.7,00,000/- as compensation for the injuries sustained by him in the accident that took place on 04.03.2012. 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 1st respondent and directed the 2nd respondent/Insurance Company to pay a sum of Rs.2,23,000/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant

has come out with the present appeal seeking enhancement of compensation.

3.The learned counsel appearing for the appellant contended that the Tribunal failed to consider and appreciate the evidence of PW1 and PW2. The Tribunal without considering the nature of injuries sustained by the appellant and awarded the disability. The sum awarded under different heads are meagre and prayed for enhancement of compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal after considering both oral and documentary evidence in proper perspective, has awarded compensation which is not excessive and prayed for dismissal of the appeal.

5.Heard Mr.Richard Suresh Kumar learned counsel appearing for the appellant as well as the Mr.G.Udayasekar, learned counsel appearing for the 2nd respondent/Insurance Company and perused all the materials available on record.

6.From the materials available on record, it is seen that the appellant was working as a cleaner and was earning a sum of Rs.250/- per day. The appellant failed to produce the documents to substantiate the same. As per Ex.P3/dischARGE summary, he has taken treatment as in-patient at Richmond Hospital from 10.03.2012 to 13.03.2012 for a period of 3 days. Further he has taken treatment in the same hospital from 24.03.2012 to 25.03.2012 for 2 days. The Tribunal has taken his income at Rs.6,000/- per month which is meagre and this Court taken a sum of Rs.6,500/- per month. The sum awarded by the Tribunal towards loss of income for 3 months is not proper and reasonable. This Court grants a sum of Rs.32,500/- towards loss of income for 5 months by taking Rs.6,500/- per month i.e. (Rs.6,500/- x 5). P.W.2/Doctor has deposed that due to the accident the appellant has suffered fractures and he cannot walk for long time, climb staircase, sit cross legged, cannot squat etc. and certified the disability of the appellant at 65%. The Tribunal has taken disability of the appellant as 50% and awarded a sum of Rs.1,00,000/- by awarding Rs.2,000/- per percentage which is meagre. The accident is of the year 2012 and this Court awards a sum of Rs.1,50,000/- (3,000 x 50%) towards disability by awarding Rs.3,000/- per percentage. The sum awarded by the Tribunal towards transportation is meagre and hence, the same is enhanced to Rs.10,000/-. The sum awarded by the Tribunal under other heads are proper and does not require any modification. 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)
1.	Loss of income	Rs.18,000/-	Rs.32,500/-
2.	Transportation	Rs.7,000/-	Rs.10,000/-
3.	Extra nourishment	Rs.7,000/-	Rs.7,000/-
4.	Damage to clothes	Rs.1,000/-	Rs.1,000/-
5.	Medical expenses	Rs.30,000/-	Rs.30,000/-
6.	Attender charges	Rs.10,000/-	Rs.10,000/-
7.	Loss of amenities of life	Rs.15,000/-	Rs.15,000/-
8.	Mental agony and pain & suffering	Rs.35,000/-	Rs.35,000/-
9.	Disability	Rs.1,00,000/-	Rs.1,50,000/-
	Total	Rs.2,23,000/-	Rs.2,90,500/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,23,000/- is enhanced to Rs.2,90,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. No costs.

8. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn.

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

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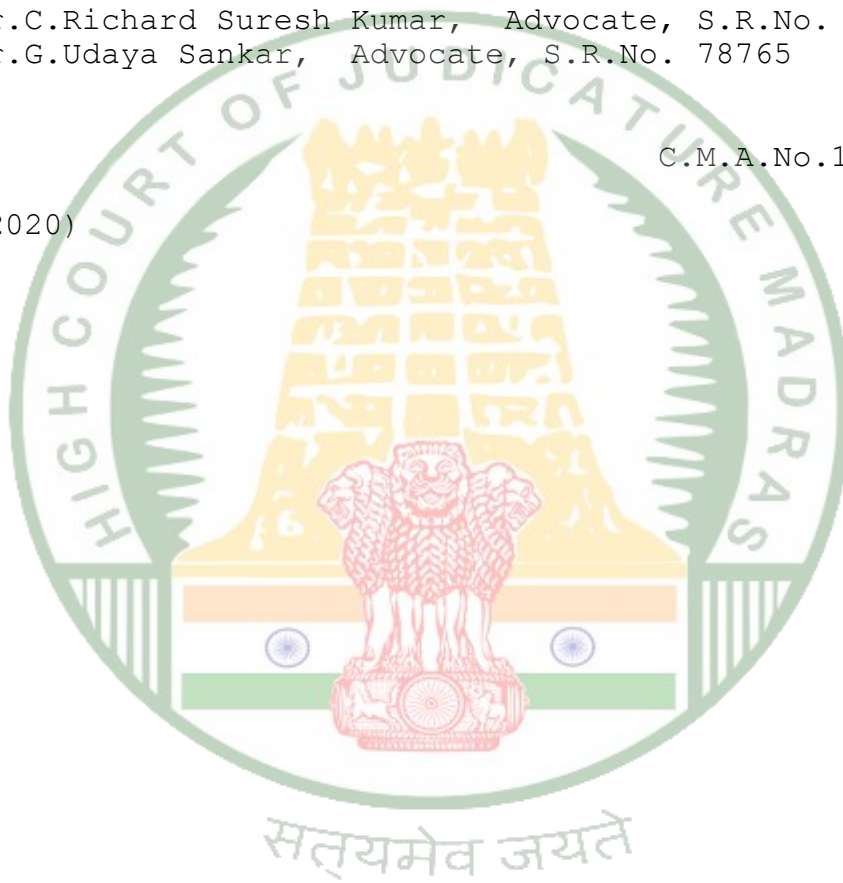
1.The II Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

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

+1cc to Mr.C.Richard Suresh Kumar, Advocate, S.R.No. 79476
+1cc to Mr.G.Udaya Sankar, Advocate, S.R.No. 78765

C.M.A.No.1310 of 2015

GP(CO)
GN(05/03/2020)



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