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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1760 of 2011

R. Paul Karthick (A) Karthick ... Appellant/Petitioner

Vs.

1.L. Ramesh

2.M/s Royal Sundaram Alliance Insurance Co.,Ltd  
Sundaram Towers, 45 & 46 Whites Road,  
Chennai - 14 ... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 28.12.2011 made in M.C.O.P.No.468 of 2009, on the file of the Motor Accidents Claims Tribunal, Additional District & Sessions Judge, FTC-I, Poonamallee.

For Appellant : Mr.J. Mahalingam

For R1 : Ex-Parte

For R2 :Mr.N. Vijaya Raghavan

#### JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 28.12.2011 made in M.C.O.P.No.468 of 2009, on the file of the Motor Accidents Claims Tribunal, Additional District & Sessions Judge, FTC-I, Poonamallee..

2. On 21.10.2007 at about 19.00 hrs, when the appellant and the deceased Anandan were travelling in a motor cycle bearing Registration No.TN-20-AY-6207 at Porur Kundrathur Road, the 1st respondent lorry bearing Registration No.TN-21-M-0492 driven by its driver in a rash and negligent manner and dashed against the motor cycle and caused grievous injury to the appellant and fatal injuries to the deceased. The first respondent is the owner of the lorry which was insured with the 2nd respondent and he remained ex-parte. The 2nd respondent Insurance Company filed counter statement alleging that the



accident has taken place due to the rash and negligence of the rider of the vehicle. Since, the 2nd respondent remained set exparte, the second respondent submitted u/s 170 of Motor Vehicles Act, 1988 and the same was allowed.

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3. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.45,000/- with interest at 7.5% per annum.

4. The learned counsel for the appellant that the amount awarded by the Tribunal is very meager when compared with the injuries sustained by the appellant. Hence prays to allow this appeal.

5. The learned counsel for the respondent contended that the Tribunal passed the award based on oral and documentary evidence before it and has awarded a just and fair compensation, which needs no interference by this Court in this appeal and the quantum of compensation assessed by the Tribunal, requires no modification.

6. Heard both sides.

7. It is seen that the Tribunal, had examined 3 witnesses and marked 9 exhibits on the side of the appellant and one material object was marked. On the side of the respondents, neither oral nor documentary evidences was let in.

8. It is seen from records that, due to the accident, the victim has suffered injuries and the PW.3/Doctor, who has issued the disability certificate/Ex.P9, has assessed the disability suffered by the victim at 30% but the Tribunal has taken only 20% and this calls interference by this Court and it is being taken as 25% hence the amount under this head is enhanced to Rs.25,000/- from Rs.20,000/- Accordingly the compensation awarded is hereby tabulated:

| Heads under which the amount is awarded | Amount awarded by the Tribunal | Amount awarded by this Court |
|-----------------------------------------|--------------------------------|------------------------------|
| Loss of earning                         | Rs.5,000/-                     | Rs.25,000/-                  |
| Medical Expenses                        | Rs.5,000/-                     | Rs.5,000/-                   |
| Transport to Hospital                   | Rs.5,000/-                     | Rs.12,000/-                  |
| Extra Nourishment                       | Rs.5,000/-                     | Rs.5,000/-                   |
| Pain and Suffering                      | Rs.5,000/-                     | Rs.10,000/-                  |



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| Heads under which the amount is awarded | Amount awarded by the Tribunal | Amount awarded by this Court |
|-----------------------------------------|--------------------------------|------------------------------|
| Loss of Future Amenities and disability | Rs.20,000/-                    | Rs. 25,000/-                 |
| Attendar Charges                        | -Nil-                          | Rs.6,000/-                   |
| Total                                   | Rs. 45,000/-                   | Rs. 88,000/-                 |

9. Thus, the compensation is enhanced to Rs.88,000/- from Rs.45,000/- In short, the enhanced amount of compensation is arrived at Rs.88,000/- and the respondent-Insurance Company is required to deposit the said amount with interest at the rate of 7.5% from the date of petition till the date of payment, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant/appellant is entitled to withdraw the amount

10. With the above enhancement in the amount awarded by the Tribunal, this Civil Miscellaneous Appeal is partly allowed. No costs. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

smn

To

1. The Additional District & Sessions Judge,  
FTC-I, Poonamallee.

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

+1cc to Mr.N.Vijayaraghavan, Advocate Sr.31201

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