

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1156 of 2016

Deventhiran

.. Appellant/Petitioner

Vs.

1.D.Jagan Mohan

2.Reliance General Insurance Company Limited,
Plot No.2504, Rai's Tower,
2nd Avenue, 2nd Floor,
Anna Nagar, Chennai 600 040.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 27.01.2016 made in M.C.O.P.No.5822 of 2011 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : Mr.S.Arunkumar for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 27.01.2016 made in M.C.O.P.No.5822 of 2011 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

2.The appellant is the claimant in M.C.O.P.No.5822 of 2011 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai. He filed the above said claim petition, claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 08.10.2011.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 1st respondent, driver-cum-owner of the car bearing Registration No.TN 22 BD 9684 and directed the second respondent, as insurer of the vehicle to pay a sum of Rs.71,500/- as compensation to the appellant.

4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant contended that the appellant suffered grievous injuries and has taken treatment as in-patient in hospital from 08.10.2011 to 14.10.2011. P.W.2/Doctor has certified that appellant suffered 20% disability. The Tribunal ought to have granted compensation for 20% disability considering the nature of injuries and treatment taken by the appellant. The Tribunal failed to award any amount towards future medical expenses and damage to clothes. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, Mr. S. Arun Kumar, learned counsel appearing for the second respondent- Insurance Company contended that the copy of the X-ray and disability certificate marked as Exs. P10 & P11 to prove that the appellant suffered 20% disability are fabricated one and hence, the Tribunal rightly rejected the same. The appellant is a retired Head Master and receiving pension and hence, he is not entitled for compensation towards loss of income. In any event, the amounts awarded by the Tribunal under other heads are not meagre and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent- Insurance Company and perused the entire materials on record.

8. From the materials available on record, it is seen that the appellant has suffered laceration injury over right side of frontal scalp and osteophyte fracture and he has taken treatment as in-patient in hospital from 08.10.2011 to 14.10.2011. To substantiate the injuries sustained by him, the appellant has examined P.W.2/Doctor, who deposed about the nature of injuries and treatment taken by the appellant and assessed disability at 20%. The Tribunal failed to consider the 20% disability assessed by P.W.2/Doctor on the ground that the disability relates only to part of the body and not to the whole body. The said reasoning is erroneous. Considering the nature of injuries, evidence of P.W.2/Doctor and period of treatment, the appellant is entitled to compensation for 20% disability at the rate of Rs.3,000/- per percentage. Thus, a sum of Rs.60,000/- (Rs.3,000/- x 20%) is awarded towards partial permanent disability. The appellant has proved that he has not received reimbursement for the amount spent by him for the medical expenses from the State Government by marking Ex.P7/Original Medical Bills. Therefore, the appellant is entitled to

compensation for medical expenses as per the bills marked as Ex.P7. The Tribunal has granted a meagre sum of Rs.3,000/- towards attendant charges and the same is hereby enhanced to Rs.5,000/-. A consolidated sum of Rs.5,000/- granted by the Tribunal towards transportation and Extra nourishment is hereby enhanced to Rs.15,000/-. The Tribunal has failed to award any amount towards loss of damage to clothes. Hence, this Court is inclined to award a sum of Rs.2,000/- towards loss of damage to clothes. The amounts granted by the Tribunal under the other heads are just and reasonable and hence, they are 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.	Disability	-	60,000/-	granted
2.	Pain and sufferings	20,000/-	20,000/-	confirmed
3.	Medical Expenses	33,384/-	33,384/-	confirmed
4.	Loss of amenities	10,000/-	10,000/-	confirmed
5.	Transportation and Extra nourishment	5,000/-	15,000/-	enhanced
6.	Damage to clothes	-	2,000/-	granted
7.	Attendant charges	3,000/-	5,000/-	enhanced
	Total	Rs.71,384/-	Rs.1,45,384/-	enhanced by Rs.74,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.71,384/- is hereby enhanced to Rs.1,45,384/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent 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 by making necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

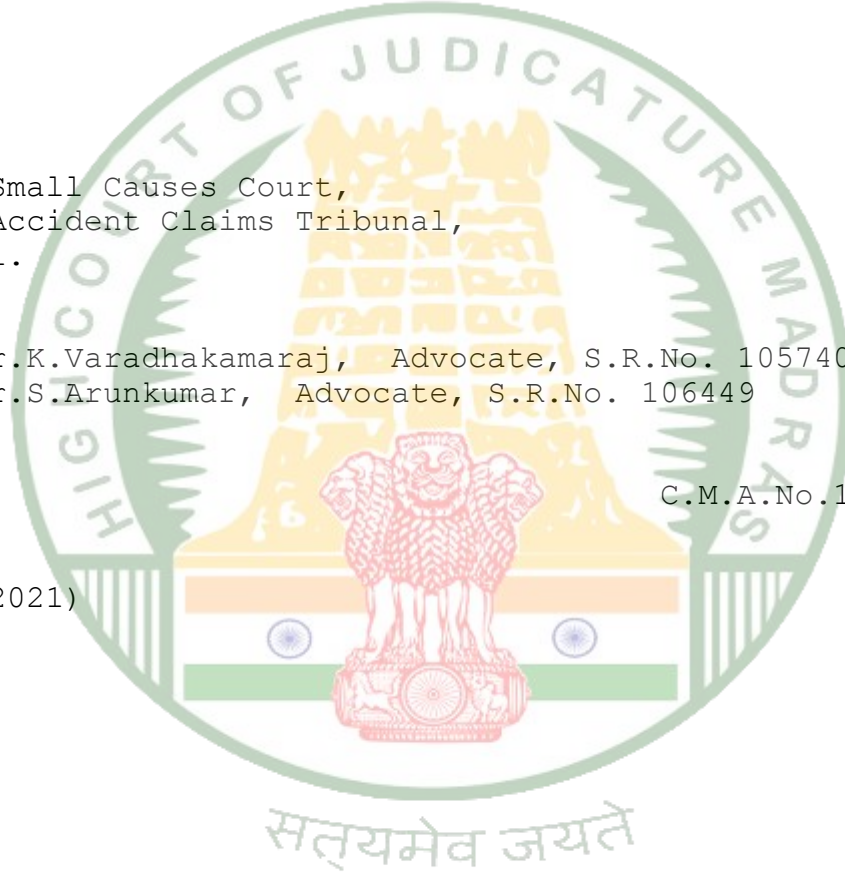
1.The VI Small Causes Court,
Motor Accident Claims Tribunal,
Chennai.

+1cc to Mr.K.Varadhakamaraj, Advocate, S.R.No. 105740

+1cc to Mr.S.Arunkumar, Advocate, S.R.No. 106449

C.M.A.No.1156 of 2016

KJ(CO)
GN(20/01/2021)



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