

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.2506 of 2011

P.Govindaraj

... Appellant/Claimant

Versus

1.P.Ramasamy

2.R.Gowdham

3.Reliance Insurance Co, Ltd.,
1st Floor, Sri Sri Meenachi Plaza,
5080, Feet Road, Anna Nagar,
Madurai - 625 020. ... Respondents/Respondents

(R1 & R2 are given up)

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree dated 10.07.2009 made in M.A.C.T.O.P.No.170 of 2008 on the file of the Additional District Judge, Motor Accident Claims Tribunal Cum Fast Track Court No.4, Bhavani, Erode District has to be set aside by enhancing the compensation amount.

For Appellant : Mr.C.Kulanthaivel

For Respondents : Mrs. Harini.C
for Mr.M.B.Gopalan, (for R3)

: Given up (for R1 & R2)

JUDGMENT

This Civil Miscellaneous Appeal is directed against the Judgment and Decree dated 10.07.2009 made in M.A.C.T.O.P.No.170 of 2008 on the file of the Motor Accident Claims Tribunal Cum Fast Track Court No.4, Bhavani, Erode District, seeking enhancement of the compensation amount.

2.The brief case of the appellant is that on 28.02.2008 at about 08.15 hours, while he was riding his bike bearing Registration No.TN-83-AF-4918 on Muthur Road to Kurangan Pallam,

near Sellatha extension and at that time, a Bajaj Tempo Trax bearing Registration No.TN-67-Y-4065 was driven by the first respondent, who driven the vehicle, in a rash and negligent manner from the opposite direction, north to south and dashed against the appellant/claimant, resulting in the appellant/claimant sustaining injuries on his right thigh bone fracture with swelling and multiple grievous injuries. Immediately, he was taken and admitted to the Government Head Qtrs. Hospital, Erode. For further treatment, he was shifted to the Government Hospital at Coimbatore, where he was admitted as inpatient for two months. Thereafter, he took for advance treatment in L.K.M Hospital at Erode, for 42 days as inpatient, for the injuries sustained by him. The appellant/claimant made a claimed for a sum of Rs.3,00,000/- as compensation.

3.Heard the learned counsel appearing for the appellant/claimant as well as the learned counsel appearing for the third respondent/Insurance company.

4. The learned counsel for the appellant/claimant has drawn my attention to the evidence of PW.2/Doctor, who had issued Ex.6, wound certificate and Ex.P17, X-ray, opining the permanent disability at 65% and for the same, the appellant/claimant claimed a sum of Rs.50,000/-, X-ray cost of Rs.340, for Pain and Sufferings a sum of Rs.50,000/- for Maintenance for a sum of Rs.10,000/-, for Nutrition of Rs.10,000/- and Rs.8,000/- towards for Transportation as compensation. However, the Tribunal has awarded a sum of Rs.2,02,226/-. Not being statisfied with quantum of compensation, the claimant/appellant has preferred this present appeal.

5.Considering the nature of injuries sustained by the appellant/claimant, this Court is of the view that the appellant/claimant being an electrician cannot pursue his work as electrician, due to his disability. This Court has considered the injuries sustained by him as functional disability. Though the Doctor assessed the disability at 65%, taking note of the medical evidence, this Court fixed his disability only at 40% and considering the age under Ex.P.18 disability certificate, the multiplier method is adopted. The amounts awarded by the Tribunal under different heads are meager. Considering the nature of avocation said to have been carried on by the appellant/ claimant, his monthly income is taken as Rs.6,500/-. Accordingly, the notional income is calculated as Rs.6500/- X 12 X 18 *40/100 = Rs.5,61,600/- and thus the re-fixed and enhancement of award is as follows:-

Heads	Amount awarded by the Tribunal	Amount Modified and enhanced by this Court
Loss of Income	Rs.50,000/-	Rs.5,61,600/-
Pain and Sufferings	Rs.50,000/-	Rs.50,000/-
Extra Nourishment	Rs.10,000/-	Rs.10,000/-
Maintenance	Rs.10,000/-	Rs.10,000/-
Medical Bill for Ex.P.11	Rs.46,860/-	Rs.46,860/-
Medical Bill for Ex.P.12	Rs.7,026/-	Rs.7,026/-
Future treatment	Rs.20,000/-	Rs.20,000/-
Transportation	Rs.8,000/-	Rs.8,000/-
X-ray fees	Rs.340/-	Rs.340/-
Total	Rs.2,02,226/-	Rs.7,13,826/-

6. In the result the Civil Miscellaneous Appeal is allowed and the Judgment and Decree dated 10.07.2009 made in M.A.C.T.O.P.No.170 of 2008 by the file of the Motor Accident Claims Tribunal Cum Fast Track Court No.4, Bhavani, Erode District is hereby modified and enhanced. The third respondent is liable to pay the compensation on behalf of the first respondent of total sum of Rs.7,13,826/- as compensation to the appellant/claimant, together with interest of 7.5% within a period of eight weeks from the date of receipt of copy of this Judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the entire amount, as determined in this appeal, with accrued interest. The appellant is directed to pay additional Court fee for the enhanced amount. The third respondent is directed to deposit the amount as determined in this appeal together with interest, after adjusting amount, if any, already deposited. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

klt

To

1. The Additional District Judge,
Motor Accident Claims Tribunal
Cum Fast Track Court No.4,
Bhavani, Erode District.

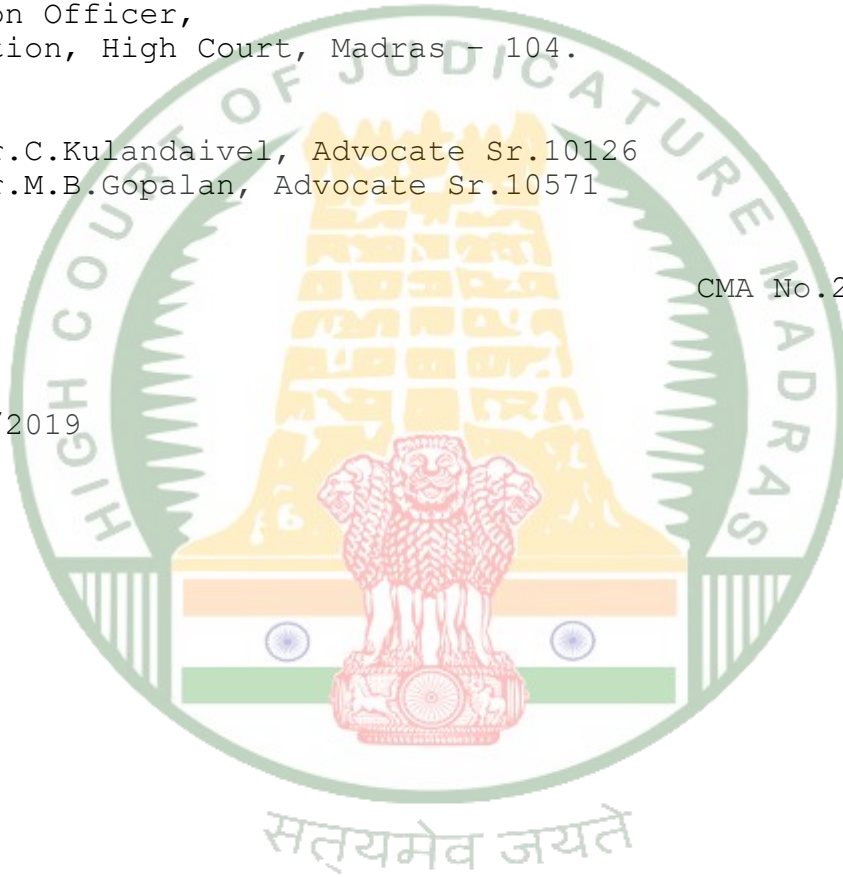
Copy to

The Section Officer,
V.R. Section, High Court, Madras - 104.

+lcc to Mr.C.Kulandaivel, Advocate Sr.10126
+lcc to Mr.M.B.Gopalan, Advocate Sr.10571

CMA No.2506 of 2011

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