

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1395 of 2016

P.Ilayaraja

... Appellant/Petitioner

Vs

1.S.Ramesh

2.United India Insurance Company Ltd.,
Rep. By its Branch Manager,
Arni, Tiruvannamalai District.

3.The Oriental Insurance Company Ltd.,
Rep. By its Branch Manager,
Jambubala Complex,
Katpadi Road, Vellore.

... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act filed against the judgment and decree dated 14.03.2016 made in MCOP No.52 of 2011 on the file of the Sub-Judge, Motor Accident Claims Tribunal, Arni.

For Appellant : Mr.P.Satheesh Kumar

For Respondents : Mr.C.Paranthaman for R2
Mr.J.Chandran for R3
R1- D/N

JUDGMENT

This appeal has been preferred by the appellant / claimant against the award of a sum of Rs.1,14,340/- towards compensation due to the injuries sustained by him in a motor vehicle accident.

2.The facts in brief, are as follows:

On 15.03.2011 at about 04.30 p.m., the appellant herein was riding his Bajaj Discover motorcycle bearing Reg.No.TN-23-AJ-8624 on the Katpadi - Thiruvallam Road. When the appellant was nearing Thangal Village, near Balaraman House, the TVS Star City two-wheeler bearing Reg.No.TN-23-AL-1053, belonging to the first

respondent and insured with the second respondent Insurance Company, came in a rash and negligent manner at high speed and dashed against the back side of the appellant's motorcycle. Due to the said impact, the appellant sustained grievous injuries. The appellant / injured filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.1,14,340/- with interest at the rate of 7.5% per annum from the date of petition.

3. Being not satisfied with the quantum of the compensation awarded by the Tribunal, the appellant-claimant has filed the present Civil Miscellaneous Appeal for enhancement of compensation.

4. The learned counsel for the appellant /claimant has submitted that the Tribunal has erred in not awarding any sum towards loss of earning during the treatment period, when there is a categorical evidence to that effect. It is also submitted that the compensation awarded towards pain and suffering is very meagre; that no sum has been awarded towards loss of amenities; that the Tribunal did not consider the gravity of injuries while awarding compensation. Stating so, the learned counsel prayed for enhancement of compensation.

5. The learned counsel for the respondent Insurance Companies have submitted that the Tribunal has correctly considered the materials and evidence available on record and has passed the impugned judgment, which does not require any interference in the hands of this Court.

6. Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7. This appeal has been filed by the claimant for enhancement of compensation. The Tribunal has awarded a sum of Rs.29,900/- towards medical expenses based upon Ex.P5-medical bills, which is an actual expenditure. The Tribunal has also awarded a sum of Rs.73,440/- towards loss of future earnings due to permanent disability, Rs.5,000/- towards transportation, Rs.1,000/- towards attender charges and Rs.5,000/- towards pain and suffering. But the Tribunal has not awarded any amount towards loss of earning during the treatment period and loss of amenities. Considering the injuries suffered by the claimant, it would be appropriate to award a sum of Rs.26,000/- towards loss of earning during the treatment period and Rs.50,000/- towards loss of amenities and further, it would be appropriate to enhance the compensation awarded by the Tribunal towards pain and suffering to Rs.10,000/-. The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Medical expenses	29,900/-
Transportation expenses	5,000/-
Attender charges	1,000/-
Loss of future earning due to disability	73,440/-
Loss of earning during the treatment period	26,000/-
Loss of amenities	50,000/-
Pain and suffering	10,000/-

	1,95,340/-
	=====

Thus the appellant / claimant is entitled to the modified compensation of Rs.1,95,340/- with interest at the rate of 7.5% per annum from the date of petition. It is made clear that the claimant has to pay the appropriate Court fee in order to receive the awarded amount.

8.The Civil Miscellaneous Appeal is partly allowed. No costs. The second respondent Insurance Company is directed to deposit the modified compensation as ordered above, after deducting the amount if any already deposited, 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 same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

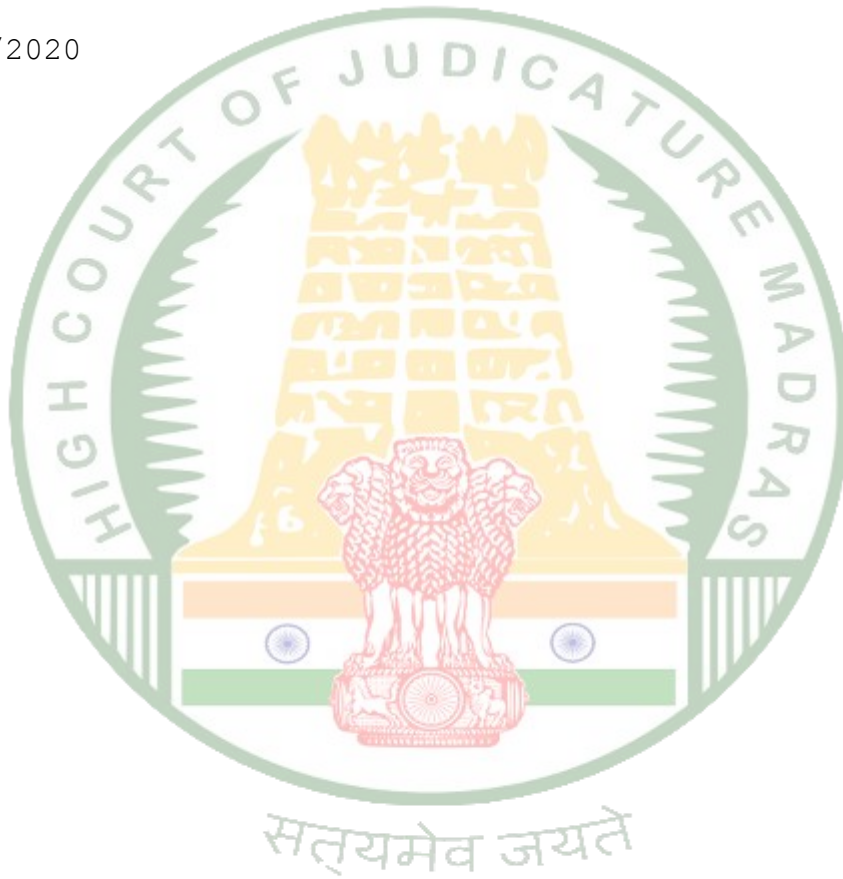
1.The Sub-Judge,
Motor Accident Claims Tribunal,
Arni.

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

+1cc to Mr.C.Paranthaman, Advocate Sr.87999

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