

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.1401 of 2016

Mathivanan

.. Appellant/Petitioner

Vs.

1. Devadasu

2. The Divisional Manager,
National Insurance Co.Ltd.,
J.N.Street, Puducherry

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 11.07.2013 made in M.C.O.P.No.314 of 2009 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Puducherry.

For Appellant : Mr.R.Sreedhar
For M/s. Sreethi Law Firm

For Respondents : Mr. J. Chandran -R2
R1- Given up

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 11.07.2013 made in M.C.O.P.No.314 of 2009 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Puducherry.

2.The appellant is claimant in M.C.O.P.No.314 of 2009 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Puducherry. He filed the said claim petition claiming a sum of Rs.8,00,000/- as compensation for the injuries sustained by him in the accident that took place on 22.03.2009. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and

negligent riding by the rider of the motorcycle belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said motorcycle to pay a sum of Rs.1,06,000/- 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/claimant contended that the Tribunal failed to consider the fact that the appellant was working as LIC Agent, Chairman and Club Member and was earning Rs.30,000/- per month. The tribunal erred in taking into consideration of the fact that the appellant has sustained multiple injuries and fracture over right hand and shoulder and there was a mal union of shaft and movement was restricted. The tribunal has not considered the evidence of PW2-Doctor, narrating the nature of injuries sustained by the appellant. The tribunal ought to have adopted multiplier method, the sum granted under other heads are also very meagre and awarded without considering the disability, hence prayed for enhancement of compensation.

4. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal after analysing the evidence and documents has awarded compensation under various heads, which are very much reasonable and proper and need not be modified. It is further contended that the appellant has not made out any case for enhancement and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant as well as 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 has contended that he was working as LIC Agent, Chairman and Club Member and was earning Rs.30,000/- per month. The tribunal erred in taking into consideration of the fact that the appellant has sustained multiple injuries and fracture over right hand and shoulder and there was a mal union of shaft and movement was restricted.. PW2/Doctor has certified the disability of the appellant at 43%. The Tribunal has also fixed the disability of the appellant at 43% and awarded a sum of Rs.43,000/- towards partial permanent disability by awarding Rs.1,000/- per percentage. The accident is of the year 2009 and the amount fixed by the Tribunal for the percentage of disability is meagre. This Court awards a sum of Rs.86,000/- (Rs.2,000 x 43%) towards partial permanent disability by awarding a sum of Rs.2,000/- per percentage. In addition to that, the Tribunal has awarded a sum of Rs.3,000/- towards

transportation and Rs.5000/- towards extra nourishment. This Court awards a sum of Rs.10,000/- each towards transportation and extra nourishment. Due to the accident, the appellant would have lost his income. A sum of Rs.10,000/- awarded by the Tribunal towards loss of income is meagre and the same is enhanced to Rs.20,000/-. In respect of Medical expenses, the appellant has produced medical bills Ex.P14 series for a sum of Rs. 29,907/-, the tribunal has considered the same and granted a sum of Rs.30,000/- under the said head, this Court confirms the same. Considering the treatments, pain and sufferings and mental agony caused to the petitioner, the sum awarded by the tribunal at Rs.10,000/- towards pain and suffering and Rs.5,000/- towards mental agony are enhanced to Rs.25,000/- and Rs.15,000/- respectively under those heads. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount modified by this Court (Rs)
1.	Partial permanent disability	43,000/- (43 x 1000)	86,000/- (43 x 2000)
2.	Pain and suffering	10,000	25,000
3.	Mental agony	5,000	15,000
4.	Medical expenses	30,000	30,000
5.	Extra Nourishment	5,000	10,000
6.	Travelling expenses	3,000	10,000
7.	Loss of Income	10,000	20,000
	Total	Rs.1,06,000/-	Rs.1,96,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,06,000/- is hereby enhanced to Rs.1,96,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation.

8. The 2nd respondent/Insurance Company is directed to deposit the entire 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. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

The II Additional District Judge ,
Motor Accident Claims Tribunal,
Puducherry.

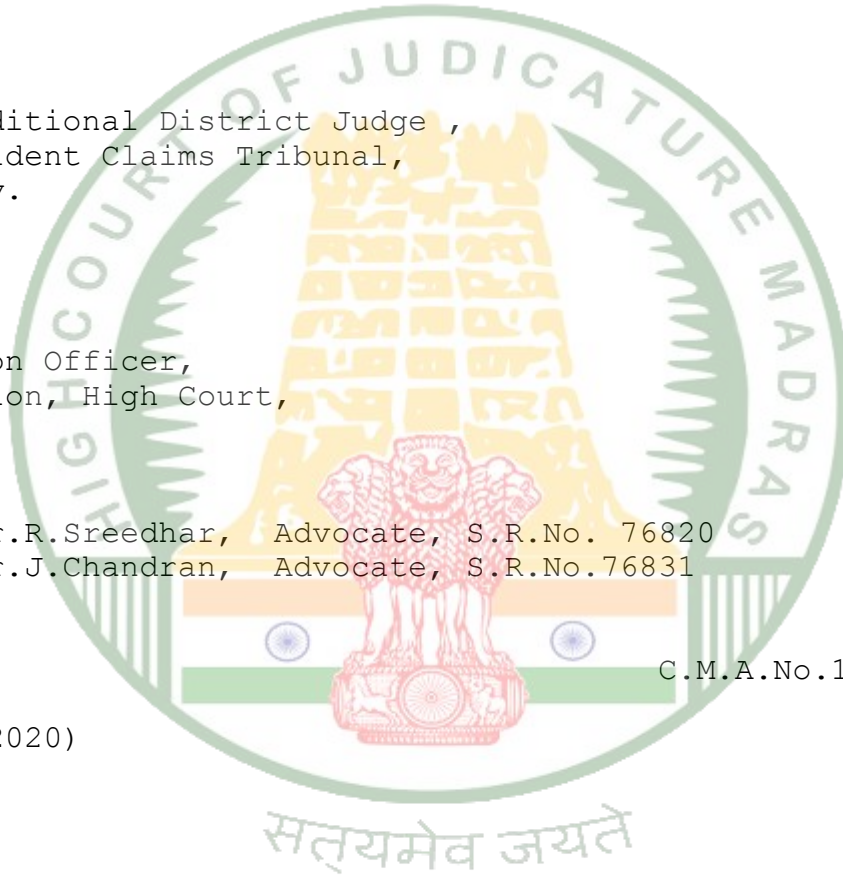
Copy To

The Section Officer,
V.R. Section, High Court,
Chennai.

+1cc to Mr.R.Sreedhar, Advocate, S.R.No. 76820
+1cc to Mr.J.Chandran, Advocate, S.R.No.76831

PVS (CO)
GN(11/09/2020)

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