

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.974 of 2019

Chelladurai

.. Appellant/Petitioner

Vs.

1.Navaneethakumar

2.The Oriental Insurance Co. Ltd.,
No.22-C, Siva Complex, 2nd Floor,
Sarada College Main Road,
Salem 636 016.

3.John De Britto Jerry

4.IFFCO-TOKIO General Insurance Co. Ltd.,
No.25-B, 1st Floor, Raja Street,
Pudhupalayam,
Gobichettipalayam 638 457,
Erode District.

.. Respondents/Respondents

(R1 & R3 were remained exparte before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 25.09.2018, made in M.C.O.P.No.1901 of 2016, on the file of the Special Sub Court No.1, (Motor Accident Claims Tribunal), Salem.

For Appellant : Mr.C.Paraneedharan

For R2 : Mr.J.Chandran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant seeking enhancement of the compensation granted by the Tribunal in the award dated 25.09.2018, made in M.C.O.P.No.1901 of 2016, on the file of the Special Sub Court No.1, (Motor Accident Claims Tribunal), Salem.

2.By consent of both parties, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant/claimant filed M.C.O.P.No.1901 of 2016, on the file of the Special Sub Court No.1, (Motor Accident Claims Tribunal), Salem, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 19.01.2014.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the car belonging to the 1st respondent and directed the 2nd respondent to pay a sum of Rs.2,60,230/- as compensation to the appellant.

5.Not being satisfied with the amounts granted by the award dated 25.09.2018, made in M.C.O.P.No.1901 of 2016, the appellant/claimant has come out with the present appeal.

6.The learned counsel appearing for the appellant submitted that the award was only against the 2nd respondent-Insurance Company and hence, no notice is necessary to the respondents 1, 3 and 4. The appellant was taking treatment as in-patient in Krishna Hospital, Tiruchengode from 22.01.2014 to 05.02.2014, for a period of 14 days. The Tribunal has not awarded any amount towards attender charges. The appellant was working as a heavy goods vehicle driver and earning a sum of Rs.10,000/- per month. Due to the accident, he sustained grievous injuries and lost the entire earning capacity and could not do the work as he was doing earlier. The Tribunal has awarded only a meagre amount towards loss of income. The appellant underwent surgery and plates were implanted, but no amount was granted for future medical expenses of the appellant. The learned counsel for the appellant further contended that the amount granted under different heads are meagre and prayed for enhancement of the compensation.

7.Mr.J.Chandran, learned counsel took notice for the 2nd respondent-Insurance Company and contended that the Tribunal considering all the materials on record has granted compensation under different heads, which are not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellant as well as the 2nd respondent and perused the materials available on record.

9.From the materials on record, it is seen that the appellant has taken treatment in hospital from 22.01.2014 to 05.02.2014, for a period of 14 days. The Tribunal has granted only a meagre sum of Rs.10,000/- towards attender charges. Hence, the same is enhanced to Rs.20,000/-. The appellant was

working as a heavy goods vehicle driver and earning a sum of Rs.10,000/- per month. Due to the injuries sustained in the accident, he was not able to do the work as before. The Tribunal fixing the monthly income of the appellant at Rs.6,500/-, has granted loss of income only for 5 months. The appellant is entitled to loss of income for a period of 10 months. Hence, a sum of Rs.65,000/- is granted towards loss of income. The amounts granted towards loss of amenities, extra nourishment and transportation are meagre. Hence, the same are enhanced and a sum of Rs.20,000/- each is granted towards loss of amenities and extra nourishment and a sum of Rs.10,000/- is granted towards transportation charges. The amounts granted by the Tribunal under other heads are 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.	Pain and suffering	30,000/-	30,000/-	confirmed
2.	Loss of income	32,500/-	65,000/-	enhanced
3.	Medical expenses	49,980/-	49,980/-	confirmed
4.	Transportation	7,000/-	10,000/-	enhanced
5.	Attender charges	10,000/-	20,000/-	enhanced
6.	Damages to clothes	1,750/-	1,750/-	confirmed
7.	Extra nourishment	10,000/-	20,000/-	enhanced
8.	Loss of amenities	5,000/-	20,000/-	enhanced
9.	Disability	1,14,000/-	1,14,000/-	confirmed
	Total	2,60,230/-	3,30,730/-	Enhanced by Rs.70,500/-

10. In the result, the appeal is partly allowed and compensation granted by the Tribunal at Rs.2,60,230/- is enhanced to Rs.3,30,730/- along with interest and costs. The 2nd respondent is directed to deposit the enhanced award amount along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of

M.C.O.P.No.1901 of 2016. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

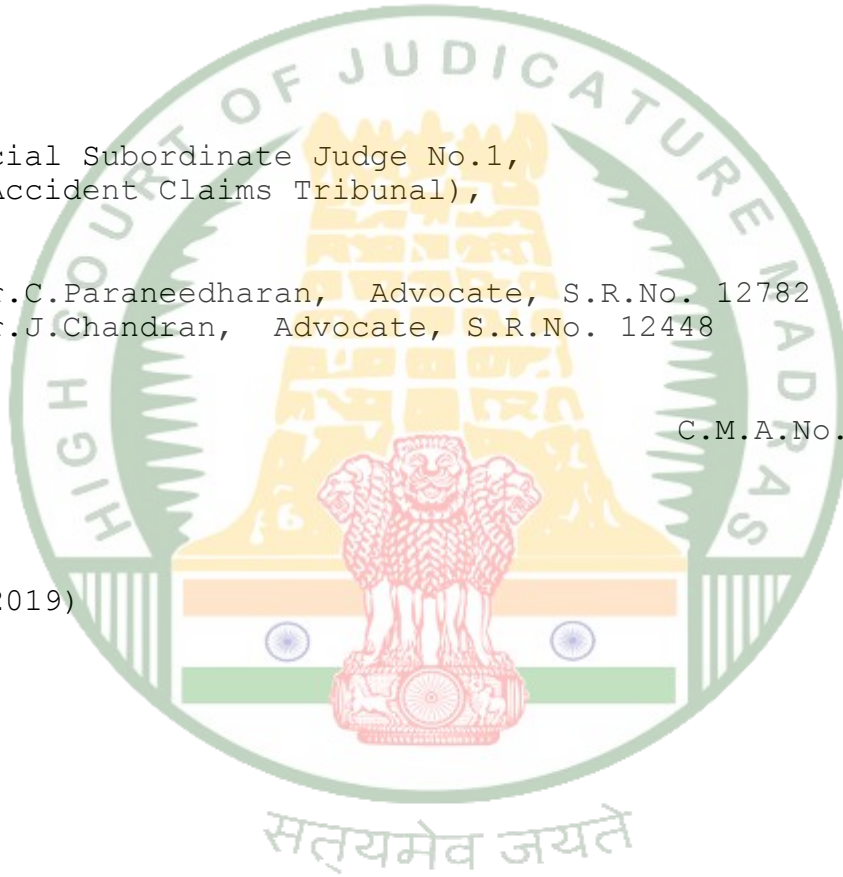
1.The Special Subordinate Judge No.1,
(Motor Accident Claims Tribunal),
Salem.

+1cc to Mr.C.Paraneedharan, Advocate, S.R.No. 12782

+1cc to Mr.J.Chandran, Advocate, S.R.No. 12448

C.M.A.No.974 of 2019

SS (CO)
GN (14/11/2019)



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