

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.40 of 2011

G.S.Pradeep

... Appellant /Petitioner

Vs.

1.R.Mohanasundaram

2.The Oriental Insurance Company Limited,

Jawaharlal Nehru Salai,

S.B.I upstairs, Thiruvallore ... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 29.04.2010 and made in M.C.O.P.No.922 of 2007 on the file of the Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track Court 1, Poonamallee.

For Appellant : Ms.Y.Jayanthi Bhaskar

For M/s.J.Mahalingam

For R1 : No appearance

For R2 : Mr.S.K.Krishnamoorthy

JUDGMENT

The claimant is the appellant herein

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 29.04.2010 and made in M.C.O.P.No.922 of 2007 on the file of the Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track Court 1, Poonamallee.

2.On 27.06.2006 at about 9.00 hours when the petitioner was crossing the Royapettah High road from East to West. At that time, an auto rickshaw bearing Registration No.TN-07-A-7234 driven by its driver in a rash and negligent manner and hit against the claimant. Thereby, the claimant sustained grievous injuries.

3. As per the Ex.P7 disability certificate issued by the Orthopedic Surgeon which shows that the claimant had sustained fracture in left side tibia and fibula. The Doctor assessed the disability is 45%. Therefore, the trial Court had found and assessed that the disability to the claimant is 45%. On perusal of Ex.P2 and P3 the discharge summaries, he was in-patient from 27.06.2006 to 04.07.2006 and 22.12.2006 to 26.12.2006.

4. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.2,70,000/- with interest at 7.5% per annum.

5. Heard both sides.

6. It is seen from the evidence of P.W.2 Doctor and Exhibits P2 and P3 discharge summary and Exhibit P7 Disability Certificate, the Doctor has obtained that the claimant has suffered injury, permanent disability at 45% and the same has been accepted by the Tribunal. However, as granted only Rs.45,000/- at the rate of Rs.1,000/- per percentage and the same has been enhanced to Rs.2,000/- per percentage and towards the "loss of amenities" Rs.5,000/-has been awarded and towards "medical attender" Rs.7,500/- has been awarded.

7. It is seen from the Exhibit P2 discharge summary issued by the Government Hospital Royapettah, the injured was in-patient from 27.06.2006 to 04.07.2006 and thereafter, private hospital namely Devaki from 22.12.2006 to 26.12.2006. Therefore, he was in the hospital for more than 12 days.

8. Taking into consideration, the loss of income is revised as Rs.20,000/- over and above, Rs.15,000/- additional has been granted.

9. Hence, total compensation is hereby enhanced to Rs.2,99,500/- from Rs.2,70,000/- as awarded by the Motor Accidents Tribunal and hence, the award amount in M.C.O.P.No.922 of 2007 stands modified as that of Rs.2,99,500/-

Heads under which the amount is awarded	Amount awarded by the Tribunal	Amount awarded by this Court
Loss of income	Rs. 5,000/-	Rs. 20,000/-
Transport to hospital	Rs. 1,750/-	Rs. 1,750/-

Heads under which the amount is awarded	Amount awarded by the Tribunal	Amount awarded by this Court
Extra Nourishment	Rs. 5,000/-	Rs. 5,000/-
Medical Expenditure	Rs. 2,03,250/-	Rs. 2,03,250/-
Pain and suffering	Rs. 10,000/-	Rs. 10,000/-
Loss of future amenities for his disability	Rs. 45,000/-	Rs. 47,000/-
Loss of amenities	---	Rs. 5,000/-
Medical Attender charges	---	Rs. 7,500/-
Total	Rs.2,70,000	Rs. 2,99,500/-

10. The award amount granted by the Motor Accidents Claims Tribunal, Vellore, to the tune of Rs.2,70,000/- is enhanced as above.

11. The learned counsel for the Insurance Company stated that the entire award amount has already been deposited and the Insurance Company shall deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this judgment. Interest at the rate of 7.5% with regard to the enhancement of amounts shall accordingly be calculated for payment.

12. With the above enhancement in the amount awarded by the Tribunal, this Civil Miscellaneous Appeal is partly allowed. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

To

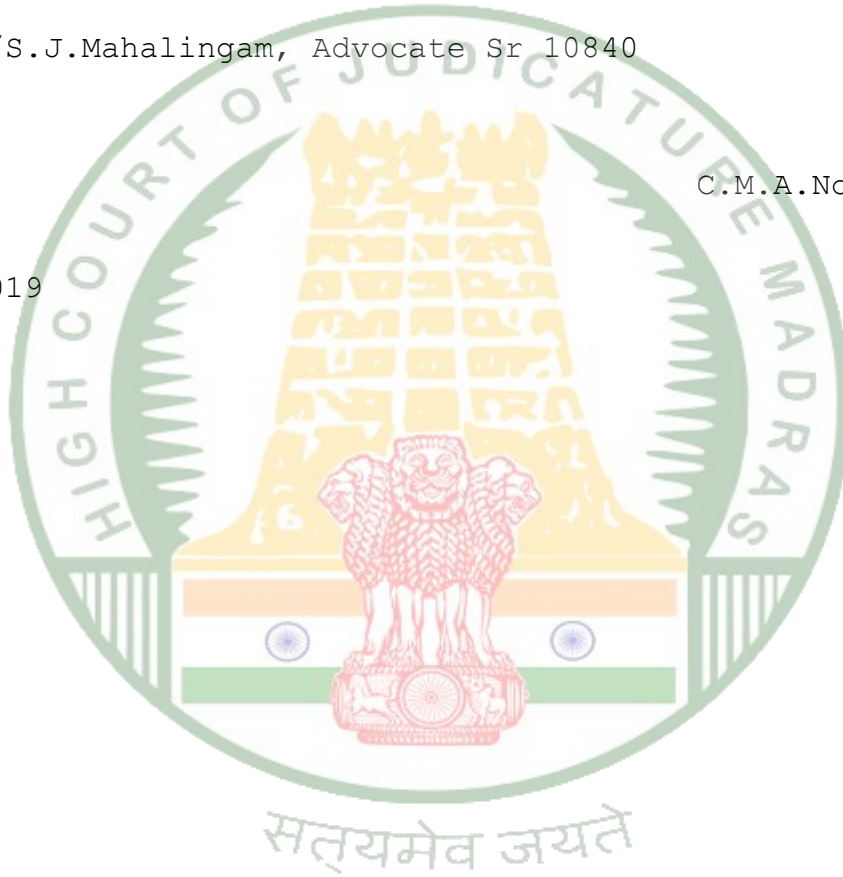
1.The Motor Accident Claims Tribunal, Additional District &
Sessions Judge,
Fast Track Court 1, Poonamallee.

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

+2cc to M/S.J.Mahalingam, Advocate Sr 10840

C.M.A.No.40 of 2011

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