

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3742 of 2013

R.Solai

.. Appellant/Petitioner

Vs.

1.S.Iyyappan

2.National Insurance Company Limited,
No.35, North Usman Road,
T.Nagar,
Chennai-600 017.

.. Respondents/Respondents

(1st respondent remained ex-parte
before the Tribunal, hence, his
presence may be dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 21.03.2013 made in M.A.C.T.O.P.No.4062 of 2008 on the file of Motor Accident Claims Tribunal, XVII Additional district and Sessions Judge, Chennai.

For Appellant : Mr.F.Terry Chellaraja
for Mrs.I.Malar

For R1 : Ex-parte

For R2 : Mrs.K.Saraswathi

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant seeking enhancement of compensation granted by the Tribunal in the award dated 21.03.2013 made in M.A.C.T.O.P.No.4062 of 2008 on the file of Motor Accident Claims Tribunal, XVII Additional District and Sessions Judge, Chennai.

2.The appellant is the claimant in M.A.C.T.O.P.No.4062 of 2008 on the file of Motor Accident Claims Tribunal, XVII Additional District and Sessions Judge, Chennai. He filed the said claim petition claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 04.02.2008.

3. On 04.02.2008 at about 12.00 hours, the appellant was riding in his motor cycle bearing Regn.No.TN-02-Q-8571 from Sathanur to Vikkaravandi at Sathanur main road, near Sathanur railway gate, Villupuram District. At that time, a motor cycle bearing Regn.No.TN-07-AP-5406, driven by its rider in a rash and negligent manner, came at a dangerous speed from opposite direction and dashed against the appellant, due to which the appellant sustained grievous injuries.

4. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the motor cycle belonging to the first respondent and directed the second respondent to pay a sum of Rs.1,97,070/- 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.

5. Heard Mr.F.Terry Chellaraja, learned counsel for the appellant and Mrs.K.Saraswathi, learned counsel appearing for the second respondent.

6. A perusal of the records show that the claimant has sustained fracture of right clavical bone and injuries all over the body. Dr.Tr.Saichandran (PW5) and Dr.Tr.Saravanabavanandam (PW6) have assessed the partial permanent disability as 50% and the Tribunal has reduced the same to 40% and awarded a sum of Rs.2,000/- per percentage of disability. Considering the nature of injuries and the year of the accident, the Tribunal had rightly awarded a sum of Rs.80,000/- towards disability and the same is hereby confirmed. It is seen from the claim petition that the claimant was earning Rs.10,000/- by self employment. The appellant has not filed any document to prove his age and income. Anyhow, considering Ex.P2, P3 and P4 discharge summaries, the age of the appellant was fixed as 47. Considering the evidence of P.W.1 and the age of the appellant, the Tribunal has rightly fixed the minimum notional income of the appellant at Rs.4,500/- per month and awarded a sum of Rs.13,500/- for a period of three months, which stands confirmed by this Court. The Tribunal has awarded a sum of Rs.82,000/- for medical expenses and the same is confirmed hereby. After considering Ex.P8, the Tribunal has awarded a sum of Rs.3,570/- towards Transportation and the same is hereby enhanced to Rs.5,000/-. The Tribunal has awarded a sum of Rs.3,000/- towards Nutrition and the same is hereby enhanced to Rs.5,000/-. The Tribunal has awarded a sum of Rs.15,000/- towards pain and sufferings and the same is hereby confirmed. The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this Court
1.	Disability	Rs.80,000/-
2.	Pain and sufferings	Rs.15,000/-
3.	Medical Expenses	Rs.82,000/-
4.	Transportation	Rs.5,000/-
5.	Nutrition	Rs.5,000/-
6.	Loss of income	Rs.13,500/- (Rs.4,500/- x 3 months)
Total		Rs.2,00,500/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,97,070/- is hereby enhanced to Rs.2,00,500/- together along 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. The respondents are jointly and severally directed to deposit the enhanced 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 already withdrawn, if any. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sbn
To

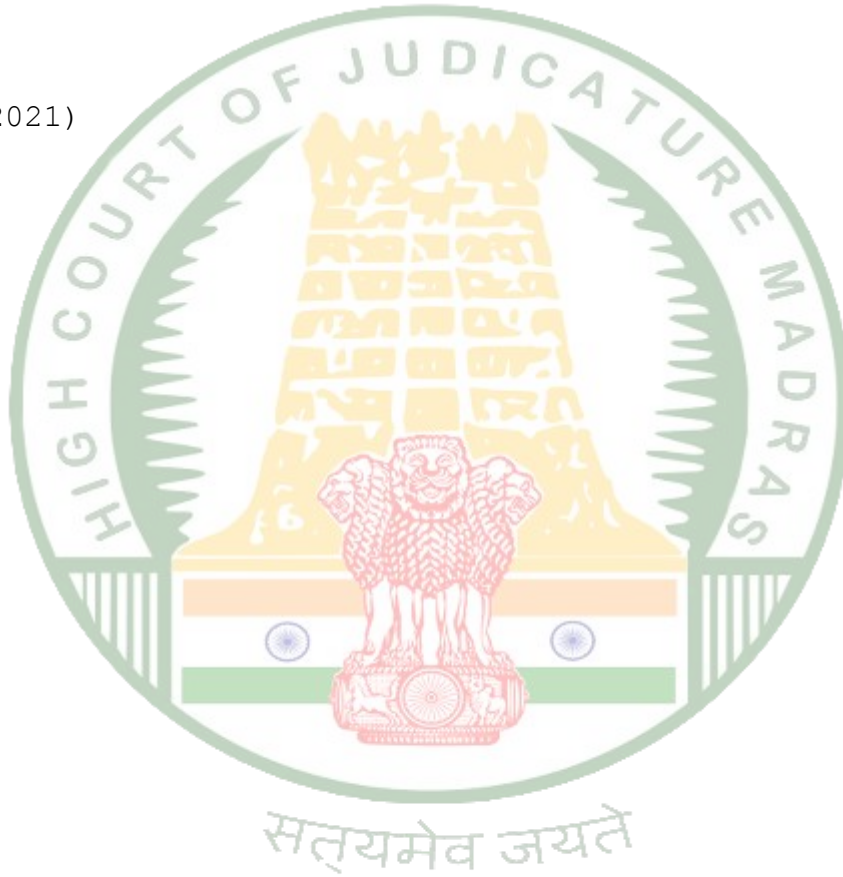
1. The XVII Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
Chennai.

Copy to
The Section Officer,
V.R Section,
High Court, Madras.

+1 CC to Mrs.I.Malar, Advocate sr 102754
+1 CC to Mr.CR. Krishnamoorthy, Advocate sr 102456.

C.M.A.No.3742 of 2013

VGI (CO)
SP(08/02/2021)



WEB COPY