

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3764 of 2013

Manavalan

...Appellant/Petitioner

Vs

1. C.P.Joseph

2. The Divisional Manager,
National Insurance Co.Ltd.,
No.19, Officers Line,
Vellore. ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Judgement and Decree made in M.A.C.T.O.P.No.316 of 2006 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Thiruvannamalai, dated 17.03.2011 and for enhancement of compensation.

For Petitioner : Mrs.Subadra
for Mrs. M.Malar

For Respondents: Mr.J.Chandran
for R2
R1 - Ex-parte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 17.03.2011 made in M.A.C.T.O.P.No.316 of 2006 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Thiruvannamalai.

2.The appellant herein is the claimant in M.A.C.T.O.P.No.316 of 2006 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Thiruvannamalai. He filed the above said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 30.11.2003.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the rider of the Tanker Lorry belonging to the first respondent and directed the 2nd

respondent to pay a sum of Rs.2,30,400/-, on behalf of the 1st respondent, as compensation to the appellant/claimant.

4. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel for the appellant submitted that the case of the appellant is that on 30.11.2003 at about 07.15 hours, the appellant was riding a motorcycle bearing Reg.No.TCZ1240 towards Moolakadai. At that time, a Tanker Lorry bearing Reg.No.KL 07 Q 4086, which came behind the petitioner's vehicle in a rash and negligent manner, without following the traffic rules, hit against the appellant and due to the said accident, the appellant sustained grievous injuries and he was admitted at Stanly Hospital, Chennai. Hence, he seeks for compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent relied on the counter filed by the 2nd respondent and stated that there is no evidence to show that he had underwent any surgery and incurred disablement and claiming an exorbitant amount of Rs.5,00,000/-, is not proper and valid. The learned counsel would further submit that the age, occupation and income of the petitioner is not admitted and hence, the petition is not maintainable, neither on facts nor on law. The accident had occurred only due to the rash and negligence of the motorcyclist. Hence, the respondent is not liable to pay compensation to the appellant/claimant. The driver of the tanker lorry was having valid and effective driving license at the time of accident. The amount of compensation claimed are highly excessive and hence, he prays for dismissal of the present appeal.

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

8. From the materials available on record, it is seen that P.W.2/Doctor assessed that the appellant suffered 35% disability. The Tribunal has reduced the disability as 30% and granted a sum of Rs.1,94,400/- (3,000 X 12 X 18 X 30/100) towards disability, which is proper. The Tribunal has awarded a sum of Rs.2,000/- each towards transport expenses and extra nourishment and the same are meager and are hereby enhanced to Rs.10,000/- and Rs.5,000/- respectively. The Tribunal has awarded a sum of Rs.2,000/- towards attendant charges, which is hereby enhanced to Rs.5,000/-. The Tribunal has awarded a sum of Rs.15,000/- towards mental agony, which is hereby enhanced to Rs.20,000/-. The amounts awarded by the Tribunal under other heads are confirmed. Thus, the compensation awarded by the Tribunal is modified by this Court as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Transportation	2,000/-	10,000/-	enhanced
2.	Extra Nourishment	2,000/-	5,000/-	enhanced
3.	Attender Charges	2,000/-	5,000/-	enhanced
4.	Mental Agony, Loss of happiness	15,000/-	20,000/-	enhanced
5.	Pain and sufferings	15,000/-	15,000/-	confirmed
6.	Loss of income, Permanent Disability and Loss of earning capacity	1,94,400/-	1,94,400/-	confirmed
	Total	Rs.2,30,400/-	Rs.2,49,400/-	enhanced by Rs.19,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,30,400/- is hereby enhanced to Rs.2,49,400/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent-Insurance Company is directed to deposit the enhanced award amount along with interest and costs now determined by this Court, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn, if any. No costs.

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Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

sbn

To

1.The Motor Accident Claims Tribunal,
Principal Subordinate Judge, Thiruvannamalai.

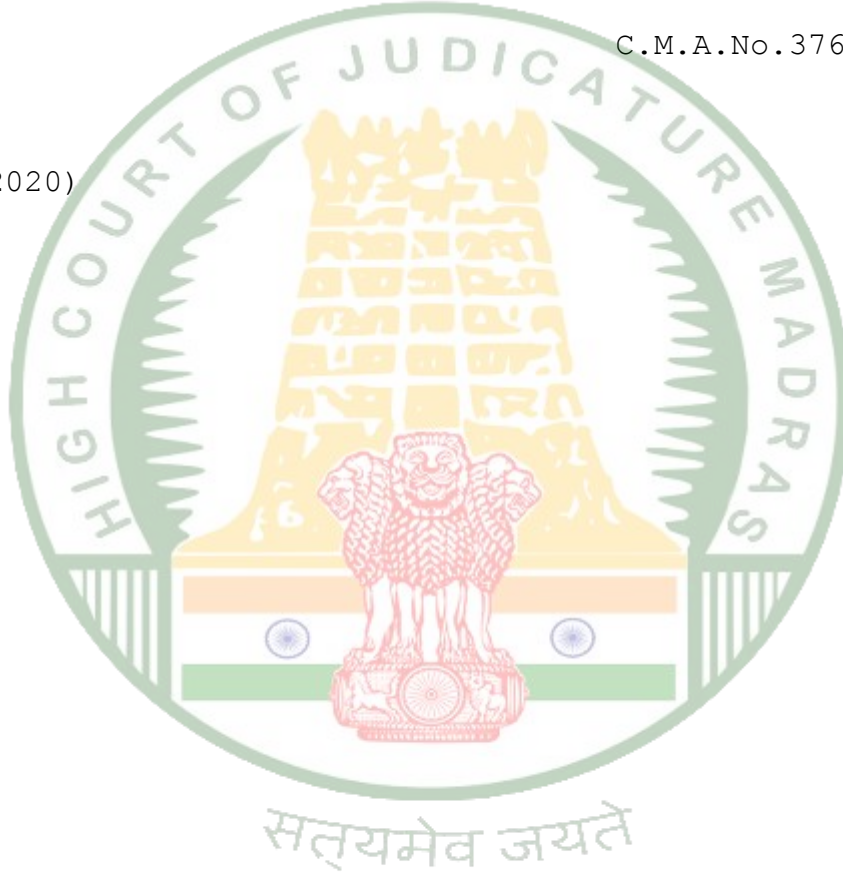
2.The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.M.Malar, Advocate, S.R.No. 101003

+1cc to Mr.J.Chandran, Advocate, S.R.No.100846

C.M.A.No.3764 of 2013

AK(CO)
GN(20/11/2020)



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