

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.NO.3217 OF 2019

Prabhu

.. Appellant/Petitioner

Vs.

1. Ravishankar

2. National Insurance Company Ltd.,
Rep. By its Branch Manager,
No.1272, 1273, Palaniappa Complex,
Mettur Road,
Erode Town & District. .. Respondents/Respondents

(No relief sought against the 1st respondent.
Hence notice may be dispense with)

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 16.11.2018 made in M.C.O.P.No.821 of 2017 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri.

For Appellant : Mr.C.Prabakaran

For R2 : Mr.J.Chandran

सत्यमेव जयते
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 16.11.2018 made in M.C.O.P.No.821 of 2017 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri.

2.The appellant is claimant in M.C.O.P.No.821 of 2017 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri. He filed the said claim petition claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained

by him in the accident that took place on 06.06.2017. 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 Tanker Lorry belonging to the 1st respondent and directed the 2nd respondent/Insurance Company to pay a sum of Rs.1,55,000/- 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 contended that the Government Medical Board Dharmapuri examined the appellant and assessed the disability at 15%. The appellant sustained injure of fracture in skull and due to which the appellant have lost entire avocation and the appellant is not in position to continue to do work. The Tribunal ought to have applied multiplier method towards disability. Further the Tribunal erred in rejecting the medical bills to the tune of Rs.25,000/- though the originals are marked as Ex.P13. The Tribunal has not considered the same and awarded only Rs.30,000/- alone. Further, the injuries sustained by the claimant was not recovered fully and he was advised to take further treatment. The Tribunal has not awarded any sum towards future medical expenses. Further the sum awarded under the head pain & suffering, transportation and extra nourishment are meagre and prayed for enhancement of compensation.

4.Per contra, learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellant has taken treatment in the hospital as in-patient only for four days. The Tribunal accepted the disability certificate issued by Medical Board and granted compensation. The total compensation awarded by the Tribunal under different heads are not meagre and prayed for dismissal of the appeal.

5.Heard Mr.C.Prabakaran, learned counsel appearing for the appellant as well as Mr.J.Chandran, learned counsel appearing for the 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 suffered fracture of skull, abrasion in the left leg, bleeding injury over the nose and multiple injuries all over the body. The appellant has taken treatment as in-patient at Neuro Foundation Hospital from 06.06.2017 to 09.06.2017. To prove the same, he examined himself as P.W.1 and Medical Board who assessed that the appellant has suffered 15% disability. The Tribunal accepted the disability assessed by the Medical Board and has taken Rs.3,000/- per percentage and awarded a sum of Rs.45,000/- (Rs.3,000/- x 15%)

as compensation towards disability which is very reasonable. The appellant has contended that he was worked as a Transport incharge at Lakshmi Narayana College, Dharmapuri and he was earned a sum of Rs.20,000/- per month. The appellant was aged 30 years at the time of the accident. The Tribunal has not awarded any sum towards loss of income and hence this Court awards a sum of Rs.10,000/- towards loss of income. The sum awarded by the Tribunal towards attender charges is meagre and hence is enhanced from Rs.5,000/- to Rs.10,000/-. The Tribunal has not awarded any sum towards future medical expenses and this Court awards a sum of Rs.10,000/- towards future medical expenses. The sum awarded by the Tribunal under other heads are properly considered by the Tribunal and does not require any modification. 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)
1.	Compensation for physical disability	Rs.45,000/-	Rs.45,000/-
2.	Pain and suffering	Rs.25,000/-	Rs.25,000/-
3.	Extra nourishment	Rs.20,000/-	Rs.20,000/-
4.	Attender charges	Rs.5,000/-	Rs.10,000/-
5.	Medical expenses	Rs.30,000/-	Rs.30,000/-
6.	Transport charges	Rs.10,000/-	Rs.10,000/-
7.	Loss of amenities	Rs.20,000/-	Rs.20,000/-
8.	Loss of income	-	Rs.10,000/-
9.	Loss of income during treatment period	-	Rs.10,000/-
10.	Future medical expenses	-	Rs.10,000/-
	Total	Rs.1,55,000/-	Rs.1,90,000/-

7.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,55,000/- is hereby enhanced to Rs.1,90,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. No Costs.

8.The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd

respondent/Insurance Company is 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 is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn.

Sd/-

Assistant Registrar(AD-IV)

//True Copy//

Sub Assistant Registrar

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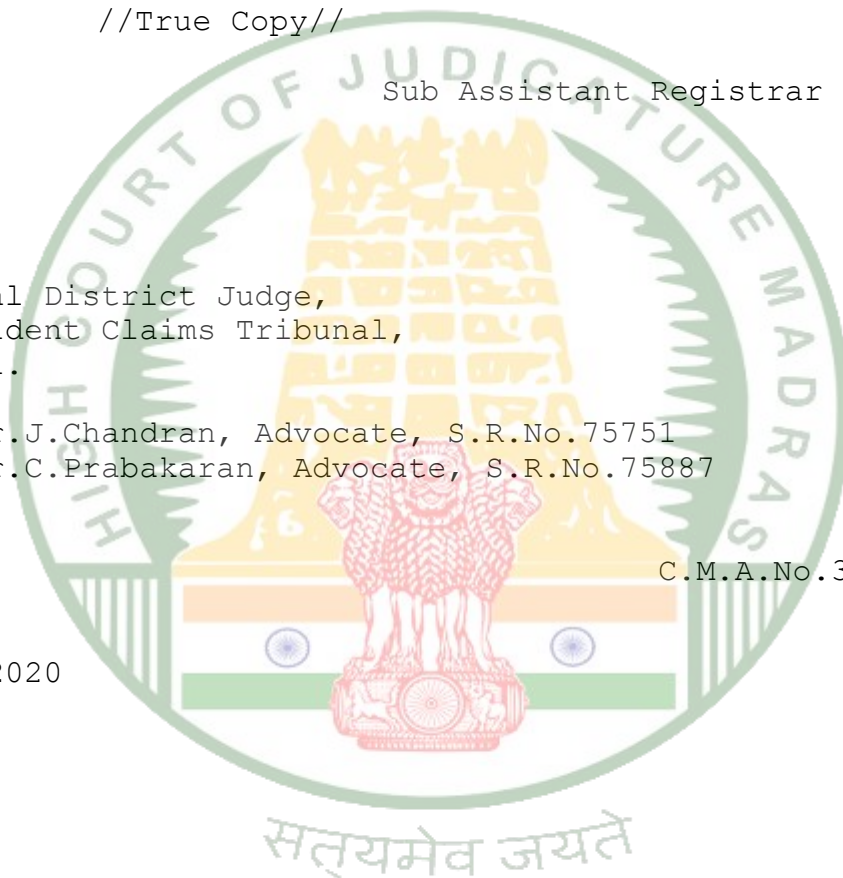
The Special District Judge,
Motor Accident Claims Tribunal,
Dharmapuri.

+lcc to Mr.J.Chandran, Advocate, S.R.No.75751

+lcc to Mr.C.Prabakaran, Advocate, S.R.No.75887

C.M.A.No.3217 of 2019

CP(CO)
CS/13/02/2020



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