

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1215 of 2018

Ramdass

.. Appellant/Petitioner

Vs.

1. P.K.Aboo

2. Cholamandalam MS General Insurance Co. Ltd.,
Dare House 2nd Floor, 2 NSC Bose road,
Chennai 1. .. Respondents/Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 22.01.2018, made in M.C.O.P.No.54 of 2015, on the file of the Additional Special Court, (Motor Accident Claims Tribunal), Krishnagiri.

For Appellant : Mr.S.Viswanathan
for M/s.Dass & Viswa Associates

For R2 : No appearance

For R1 : Unclaimed

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 award dated 22.01.2018, made in M.C.O.P.No.54 of 2015, on the file of the Additional Special Court, (Motor Accident Claims Tribunal), Krishnagiri.

2.The appellant/claimant filed M.C.O.P.No.54 of 2015, on the file of the Additional Special Court, (Motor Accident Claims Tribunal), Krishnagiri, claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on 15.04.2015.

3.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 crane belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.9,33,500/- as compensation to the appellant at the first instance and recover the same from the 1st respondent.

4. Not being satisfied with the amounts granted by the Tribunal in the award dated 22.01.2018, made in M.C.O.P.No.54 of 2015, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that the appellant was doing servicing job at High Tech Fluid Solution and was earning a sum of Rs.9,000/- per month. Due to the accident, the appellant suffered head-poly trauma, fracture of left temporal bone, EDH, IAH-contusion, SAH-left frontal temporal region, Fracture-C2 vertebra, fracture-S2, S3 Sacrum segments, closed fracture-right humerus, right femur, right patella, open type-I fracture right tibia, open type I fracture left tibia. The appellant took treatment as in-patient in Hospital from 15.04.2015 to 07.05.2015. The Tribunal erred in fixing a meagre sum of Rs.7,500/- per month as the notional income of the appellant and granted meagre sum towards loss of income. The Tribunal failed to grant any amount towards future medical expenses of the appellant. In any event, the total compensation granted by the Tribunal is meagre and prayed for enhancement of the compensation.

6. Heard the learned counsel appearing for the appellant and perused the materials available on record. Though notice has been served on the 2nd respondent and their name is printed in the cause list, there is no representation for them either in person or through counsel.

7. From the materials on record, it is seen that the appellant contended that the appellant was doing servicing job in High Tech Fluid Solution and was earning a sum of Rs.9,000/- per month. The Tribunal erroneously fixed a meagre sum of Rs.7,500/- per month as the notional income of the appellant. The accident is of the year 2015. The monthly income of the appellant is fixed at Rs.9,000/- and the compensation granted towards loss of income is modified to Rs.1,08,000/- for a period of 12 months. According to the appellant, he has sustained fractures on his right femur and right tibia. Due to the injuries and disability, he could not do the work without help of others. The Tribunal failed to grant any amount towards future medical expenses. The appellant is entitled to a sum of Rs.20,000/- towards future medical expenses. The amounts granted by the Tribunal under other heads are just and reasonable and hence, they are hereby 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.	Loss of income	60,000/-	1,08,000/-	Enhanced
2.	Pain and suffering	1,00,000/-	1,00,000/-	Confirmed
3.	Loss of amenities and enjoyment of life	1,00,000/-	1,00,000/-	Confirmed
4.	Transportation	20,000/-	20,000/-	Confirmed
5.	Extra nourishment	20,000/-	20,000/-	Confirmed
6.	Attender charges	20,000/-	20,000/-	Confirmed
7.	Damages	1,000/-	1,000/-	Confirmed
8.	Permanent disability	1,80,000/-	1,80,000/-	Confirmed
9.	Medical expenses	4,32,500/-	4,32,500/-	Confirmed
10.	Future medical expenses	-	20,000/-	Granted
	Total	9,33,500/-	10,01,500/-	Enhanced by Rs.68,000/-

8. In the result, the appeal is partly allowed and compensation granted by the Tribunal at Rs.9,33,500/- is enhanced to Rs.10,01,500/- along with interest and costs. The 2nd respondent is directed to deposit the enhanced award amount 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, to the credit of M.C.O.P.No.54 of 2015 at the first instance and recover the same from the 1st respondent. 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, by filing necessary applications before the Tribunal. No costs. The appellant is directed to pay the necessary Court fee, if any for the amount now enhanced by this Court.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gsa

To

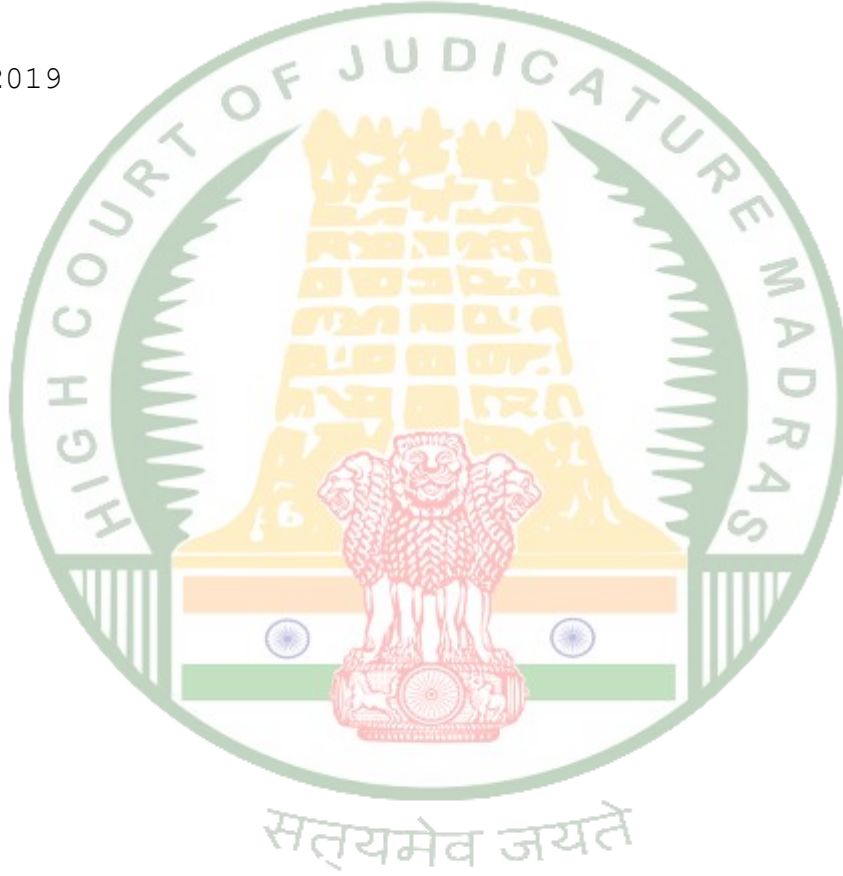
1.The Special Additional Judge,
(Motor Accident Claims Tribunal), Krishnagiri.

2.The Section Officer,
V.R. Section,
High Court, Madras.

+lcc to M/s.Dass & Viswa Associates, Advocate, S.R.No.42439

C.M.A.No.1215 of 2018

RSI (CO)
NR/21/11/2019



WEB COPY