

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1669 of 2019

R.Yuvaraj

.. Appellant/Petitioner

Vs.

1.K.Murali

2.M/s.United India Insurance Co. Ltd.,
Third Party Claims Cell,
No.134, Greams Road,
Chennai - 600 006.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 02.07.2018 made in M.C.O.P.No.1257 of 2009 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.T.G.Ravichandran

For R2 : Mr.J.Michael Visuvasam

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 02.07.2018 made in M.C.O.P.No.1257 of 2009 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

2.The appellant is the claimant in M.C.O.P.No.1257 of 2009 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai. He filed the above said claim petition, claiming a sum of Rs.5,25,000/- as compensation for the injuries sustained by him in the accident that took place on 21.12.2008.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the motorcycle belonging to the first respondent and directed the second respondent-Insurance Company to pay a sum of Rs.1,80,700/- as compensation to the appellant.

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 appearing for the appellant contended that the appellant suffered 40% disability as certified by the Rajiv Gandhi General Hospital, Chennai. The Tribunal erroneously reduced the percentage of disability to 30% on the ground that the appellant has not produced any expert evidence. The appellant was working as senior associates in Wipro Software, Chennai, and was earning a sum of Rs.11,000/- per month. The Tribunal fixed a sum of Rs.10,000/- as monthly income, which is meagre. The amount awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the second respondent-Insurance Company contended that the Tribunal rightly reduced the percentage of disability from 40% to 30% on the ground that the appellant has not produced any expert evidence. The amount awarded by the Tribunal under different heads are not meagre and prayed for dismissal of the appeal.

7.I have heard the learned counsel appearing for the appellant as well as the second respondent and perused the entire materials on record.

8.From the materials available on record it is seen that the appellant has contended that he is working as senior associates in Wipro Software, Chennai, and was earning a sum of Rs.11,000/- per month. He failed to prove the said contention. The Tribunal fixed a sum of Rs.10,000/- as monthly income and granted only a sum of Rs.10,000/- towards loss of income for one month, which is not proper. Due to the injuries and disability, the appellant would not have attended his work atleast for 6 months. The amount awarded by the Tribunal towards loss of income is modified to Rs.60,000/- [Rs.10,000/- X 6]. The appellant suffered 40% disability as certified by the Rajiv Gandhi General Hospital, Chennai and the Tribunal reduced the percentage of disability to 30% on the ground that the appellant has not produced any expert evidence, which is not correct. The appellant is entitled to compensation for 40% disability and the amount awarded by the Tribunal towards disability is modified to Rs.80,000/- [Rs.2,000/- X 40]. The Tribunal has awarded a sum of

Rs.5,000/- each towards extra nourishment and transportation, which are meagre and the same are hereby enhanced to Rs.10,000/- each. A meagre sum of Rs.10,000/- awarded by the Tribunal towards loss of amenities is hereby enhanced to Rs.20,000/-. The appellant has taken treatment as out-patient from 21.12.2008 to 22.12.2008 and as in-patient from 23.12.2008 to 02.01.2009 and the Tribunal has awarded only a sum of Rs.1,100/- towards attendant charges, which is meagre and the same is hereby enhanced to Rs.10,000/-. The amount awarded by the Tribunal under other heads are 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.	Disability	60,000/-	80,000/-	Enhanced
2.	Pain and suffering	40,000/-	40,000/-	confirmed
3.	Extra nourishment	5,000/-	10,000/-	Enhanced
4.	Transportation	5,000/-	10,000/-	Enhanced
5.	Damage to cloth	1,000/-	1,000/-	confirmed
6.	Attendant charges	1,100/-	10,000/-	Enhanced
7.	Medical expenses	38,575/-	38,575/-	Confirmed
8.	Future medical expenses	10,000/-	10,000/-	Confirmed
9.	Loss of income	10,000/-	60,000/-	Enhanced
10.	Loss of amenities	10,000/-	20,000/-	Enhanced
	Total	Rs.1,80,675/- rounded off to Rs.1,80,700/-	Rs.2,79,575/- rounded off to Rs.2,79,600/-	enhanced by Rs.98,900/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,80,700/- is hereby enhanced to Rs.2,79,600/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay the Court fee, if any on the enhanced amount of compensation. The second 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 by making necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS-III)

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Sub Assistant Registrar

krk

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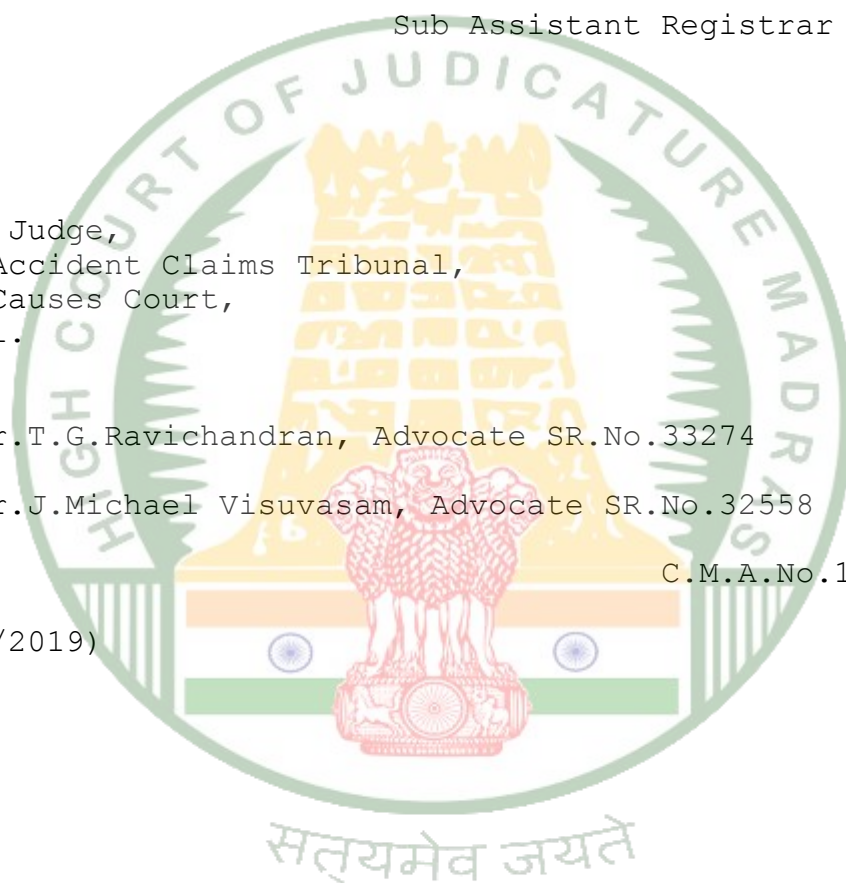
The III Judge,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

+1cc to Mr.T.G.Ravichandran, Advocate SR.No.33274

+1cc to Mr.J.Michael Visuvasam, Advocate SR.No.32558

C.M.A.No.1669 of 2019

PA(CO)
GMY(29/08/2019)



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