



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.213 of 2018

Ganapathi

.. Appellant/Petitioner

Vs.

1.Subatha Baby

2.The Branch Manager,

Future General India Insurance Co. Ltd.,

1st Floor, North Wing, Karumuthu Nilayam,

No.192, Anna Salai,

Chennai 600 002.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 31.01.2017, made in M.C.O.P.No.187 of 2013, on the file of the I Additional District Court, (Motor Accident Claims Tribunal), Dhindivanam.

For Appellant : Ms.K.Vasanthamala

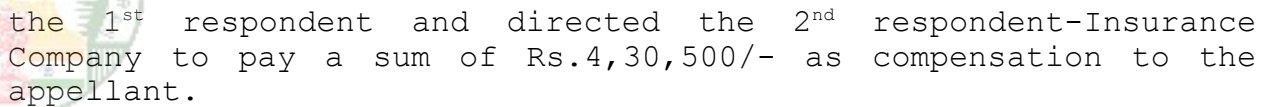
For R2 : Mr.E.Rajadurai
for Mr.N.Vijayaraghavan

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 31.01.2017 made in M.C.O.P.No.187 of 2013, on the file of the I Additional District Court, (Motor Accident Claims Tribunal), Dhindivanam.

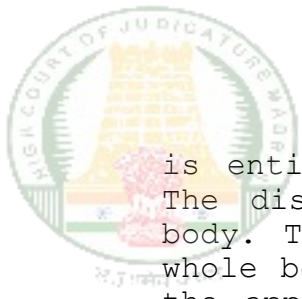
2.The appellant-claimant filed M.C.O.P.No.187 of 2013, on the file of the I Additional District Court, (Motor Accident Claims Tribunal), Dhindivanam, claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on 25.04.2012.

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 car belonging to



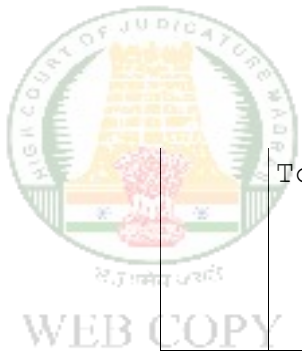
Tribun

8. From the materials on record, it is seen that the appellant was aged 17 years and was a student at the time of accident. He suffered grievous injuries and fracture and P.W.2-Doctor assessed that the appellant suffered 71% disability. The Tribunal accepted the percentage of disability assessed by P.W.2-Doctor and granted compensation at the rate of Rs.2,000/- per percentage. The Tribunal failed to consider the nature of injuries, disability suffered by the appellant and the fact that since the appellant has suffered 71% disability, his possibility of getting decent job is reduced. Considering the age, nature of injuries, fracture and disability suffered by the appellant, he



is entitled to get compensation by adopting multiplier method. The disability assessed by the Doctor was not for the whole body. The disability assessed by P.W.2-Doctor is fixed for the whole body at 50%. The Tribunal has fixed the monthly income of the appellant at Rs.5,000/- per month. The appellant is a non-earning member. The accident is of the year 2012. The monthly income fixed by the Tribunal is correct. The appellant was aged 17 years and the multiplier is 18. Adopting the multiplier method, the compensation granted by the Tribunal towards disability is modified to Rs.5,40,000/- [Rs.5,000/- x 12 x 18 x 50%]. The Tribunal has awarded a sum of Rs.30,000/- towards loss of income. The same is set aside. The Tribunal has not awarded any amount towards damages to clothes, loss of studies and loss of marriage prospects. The appellant is entitled to a sum of Rs.2,000/- towards damages to clothes, Rs.50,000/- towards loss of studies and a sum of Rs.1,00,000/- towards loss of marriage prospects. The amounts granted by the Tribunal under other heads are just and reasonable and the same 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.	Loss of income	30,000/-	-	set aside
2.	Transportation	20,000/-	20,000/-	confirmed
3.	Attender charges	25,000/-	25,000/-	confirmed
4.	Medical expenses	13,480/-	13,480/-	confirmed
5.	Damages to clothes	-	2,000/-	granted
6.	Pain and suffering	1,00,000/-	1,00,000/-	confirmed
7.	Loss of amenities	1,00,000/-	1,00,000/-	confirmed
8.	Disability	1,42,000/-	5,40,000/-	enhanced
9.	Loss of studies	-	50,000/-	granted
10.	Loss of marriage prospects	-	1,00,000/-	granted



Total	4,30,480/- rounded of to Rs.4,30,500/-	9,50,480/- rounded of to Rs.9,50,500/-	Enhanced by Rs.5,20,000/-
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9. In the result, the appeal is partly allowed and amount granted by the Tribunal at Rs.4,30,500/- is enhanced to Rs.9,50,500/- along with interest and costs. The appellant/claimant is directed to pay necessary Court fee, if any, on the amount now enhanced by this Court. The 2nd respondent is directed to deposit the enhanced award amount along with interest and costs, 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.187 of 2013. 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, by filing necessary application before the Tribunal. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The I Additional District Judge,
(Motor Accident Claims Tribunal),
Dhindivanam.

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

+1 cc to Mrs.K.Vasanthamala Advocate sr 34587
+1 cc to Mr.N.Vijayaraghavan Advocate sr34898

C.M.A.No.213 of 2018

aa06/09/2019