



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.909 of 2018

Rajakumar .. Appellant/Claimant  
Vs.

1.Santhoshkumar

2.The Shriram General Insurance Co. Ltd.,  
By its Manager,  
E/8, EPIP, RIICO,  
Sitapura,  
Jaipur, Rajasthan.

.. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 09.12.2016, made in M.C.O.P.No.18 of 2012, on the file of the Sub Court, (Motor Accident Claims Tribunal), Neyveli.

For Appellant : Mr.P.Mani  
For R2 : M/s.K.Poomalai  
For R1 :Not Ready in Notice

#### 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 09.12.2016, made in M.C.O.P.No.18 of 2012, on the file of the Sub Court, (Motor Accident Claims Tribunal), Neyveli.

2.The appellant/claimant filed M.C.O.P.No.18 of 2012, on the file of the Sub Court, (Motor Accident Claims Tribunal), Neyveli, claiming a sum of Rs.8,00,000/- as compensation for the injuries sustained by him in the accident that took place on 05.02.2012.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 1<sup>st</sup> respondent, driver-cum-owner of the TATA Ace and directed the 2<sup>nd</sup> respondent-Insurance Company to pay a sum of Rs.4,38,697/- as compensation to the appellant.



4. Not being satisfied with the amounts granted by the Tribunal in the award dated 09.12.2016, made in M.C.O.P.No.18 of 2012, the appellant has come out with the present appeal.

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5. The learned counsel appearing for the appellant contended that the appellant was working as a contract labour in N.L.C Thermal II Expansion and was earning a sum of Rs.25,000/- per month. The Tribunal fixed a meagre sum of Rs.10,000/- as the monthly income of the appellant and granted compensation towards loss of income. Due to the accident, the appellant suffered injuries on his right leg and other injuries all over the body. The Tribunal ought to have granted more compensation for the disability of 28.5% assessed by the Medical Board. The Tribunal failed to grant any amount towards loss of amenities and damages to clothes. In any event, the total compensation granted by the Tribunal is meagre and prayed for enhancement of the compensation.

6. Per contra, the learned counsel appearing for the 2<sup>nd</sup> respondent-Insurance Company contended that the Tribunal considering all the materials on record in proper perspective has granted compensation, which is not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the 2<sup>nd</sup> respondent and perused the materials available on record.

8. From the materials on record it is seen that the appellant has contended that he was working as a contract labour in NLC Thermal II Expansion and was earning a sum of Rs.25,000/- per month. For injuries suffered in the accident, the appellant has taken treatment in Government Hospital, Neyveli and B.V.L. Hospital, Laspet, Pondicherry. Surgery was done and plates were implanted and screws were fixed. Due to the injuries, the appellant could not have attended work at least for 6 months. The compensation granted by the Tribunal towards loss of income is modified to Rs.60,000/- for a period of six months at the rate of Rs.10,000/- per month. The amount granted towards disability is meagre. The appellant is entitled to a sum of Rs.85,500/- at the rate of Rs.3,000/- per percentage for 28.5% disability. The amounts granted by the Tribunal towards pain and suffering, extra nourishment and attender charges are meagre. The same are enhanced to Rs.30,000/-, Rs.20,000/- and Rs.10,000/- respectively. The Tribunal failed to grant any amount towards loss of amenities and damages to clothes. A sum of Rs.20,000/- is granted towards loss of amenities and a sum of Rs.2,000/- is granted towards damages to clothes. The amount



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9. In the result, the appeal is partly allowed and compensation granted by the Tribunal at Rs.4,38,697/- is enhanced to Rs.5,41,947/- along with interest and costs. The 2<sup>nd</sup> 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.18 of 2012. 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. However, it is made clear that the appellant is not entitled for any interest for the amount now enhanced by this Court. The appellant is directed to pay the necessary Court fee, if any for the amount now enhanced by this Court.

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Sub Assistant Registrar



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To

1.The Subordinate Judge,  
(Motor Accident Claims Tribunal),  
Neyveli.

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

+1cc to Mr.P.Mani , Advocate SR.No. 42608

+1cc to M/s.K.Poomalai , Advocate SR.No. 42402

C.M.A.No.909 of 2018

A.SK(30/08/2019)