

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.2935 of 2019

Minor R.Raghupathi

... Appellant/Petitioner

Vs

1.G.Sivaji

2.The Oriental Insurance Company Ltd.,

Motor III Party Claims Cell,

No.115, Prakasam Salai,

Chennai - 600 010.

...1 & 2 Respondents/

1 & 2 Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.01.2019 made in M.C.O.P.No.2971 of 2015 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.M.Kavikannan
for Mr.C.Thamilarasan
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 22.01.2019 made in M.C.O.P.No.2971 of 2015 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

2.The brief facts is as follows:

On 12.11.2014 at 15.00 hours, while the minor petitioner was travelling as a pillion rider in Two wheeler bearing Reg.No.TN-19-V-4696 from Thiruporur to Madhuranthagam, a Eicher van bearing Reg.No.TN-47-AA-0759 came from opposite direction, in a rash and negligent manner endangering public safety with high speed and dashed on the two wheeler. As a result, the minor petitioner sustained grievous injuries all over the body. Thus the petitioner's father claimed a sum of Rs.3,00,000/- as compensation for the injuries sustained by his son in the accident.

3.The Tribunal observed the contentions raised by both side by way of evidence and documents and has given a finding that the accident occurred only due to the rash and negligent driving on the part of the driver of the Eicher van and also awarded a sum of Rs.78,000/- as compensation under the following heads:

Transportation and nourishing food	Rs.10,000/-
Attender charges	Rs.3,000/-
Medical expenses	Rs.5,000/-
Disability	Rs.15,000/-
Damages for pain, suffering and trauma	Rs.30,000/-
Loss of amenities	Rs.15,000/-
Total	Rs.78,000/-

Aggrieved against the said award the claimant has preferred this appeal for enhancement of compensation.

4.In the grounds of appeal, the appellant has contended that the Tribunal erred in awarding a sum of Rs.10,000/- towards transportation and extra nourishment instead of Rs.20,000/- as claimed by the appellant. The Tribunal has not properly assessed the nature of injuries and period of treatment taken by the appellant. Further, the Tribunal has awarded only a meagre sum under the heads of pain & suffering and disability and therefore prayed for enhancement of compensation.

5.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company has contended that the Tribunal has held that percentage of disability certified by P.W.5-Doctor is excessive and reduced the same to 5% and there is no error in reducing the percentage of disability. The Tribunal after considering both oral and documentary evidence in proper perspective, has awarded compensation which is not excessive. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

6.Heard Mr.M.Kavikannan for Mr.C.Thamilarasan, learned counsel appearing for the appellant and Mr.J.Chandran, learned counsel appearing for the 2nd respondent/Insurance Company and perused all the materials available on record.

7.From the materials available on record, it is seen that the appellant was a student and was aged about 14 years. Due to the accident the appellant has been lacerated and he has taken treatment in the Hospital as out-patient from 12.11.2014 to 17.11.2014. PW5/Doctor assessed the disability of the appellant at 10% but the Tribunal reduced the same to 5% by awarding Rs.3,000/- per percentage which is in proper. In view of the injuries sustained by the claimant, the sum awarded by the Tribunal towards attender charges requires enhancement. Accordingly this Court enhances to Rs.5,000/-. Considering the fact that the appellant was aged about 14 years at the time of accident and he was a student, the sum awarded by the Tribunal towards pain & suffering and trauma is meagre and this Court enhances a sum of Rs.30,000/- to Rs.35,000/-. The sum awarded by the Tribunal under other heads are properly considered 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.	Transportation and nourishing food	Rs.10,000/-	Rs.10,000/-
2.	Attender charges	Rs.3,000/-	Rs.5,000/-
3.	Medical expenses	Rs.5,000/-	Rs.5,000/-

4.	Disability	Rs.15,000/-	Rs.15,000/-
5.	Damages for pain & suffering and trauma	Rs.30,000/-	Rs.35,000/-
6.	Loss of amenities	Rs.15,000/-	Rs.15,000/-
	Total	Rs.78,000/-	Rs.85,000/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.78,000/- is hereby enhanced to Rs.85,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. No Costs.

9. 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 award amount is directed to be deposited in any of the Nationalized Bank, till the minor appellant/claimant attains majority. The father of the minor appellant/guardian is permitted to withdraw the interest, once in three months for the welfare of the minor appellant.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

mtl

To

1. The IV Judge,
Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.

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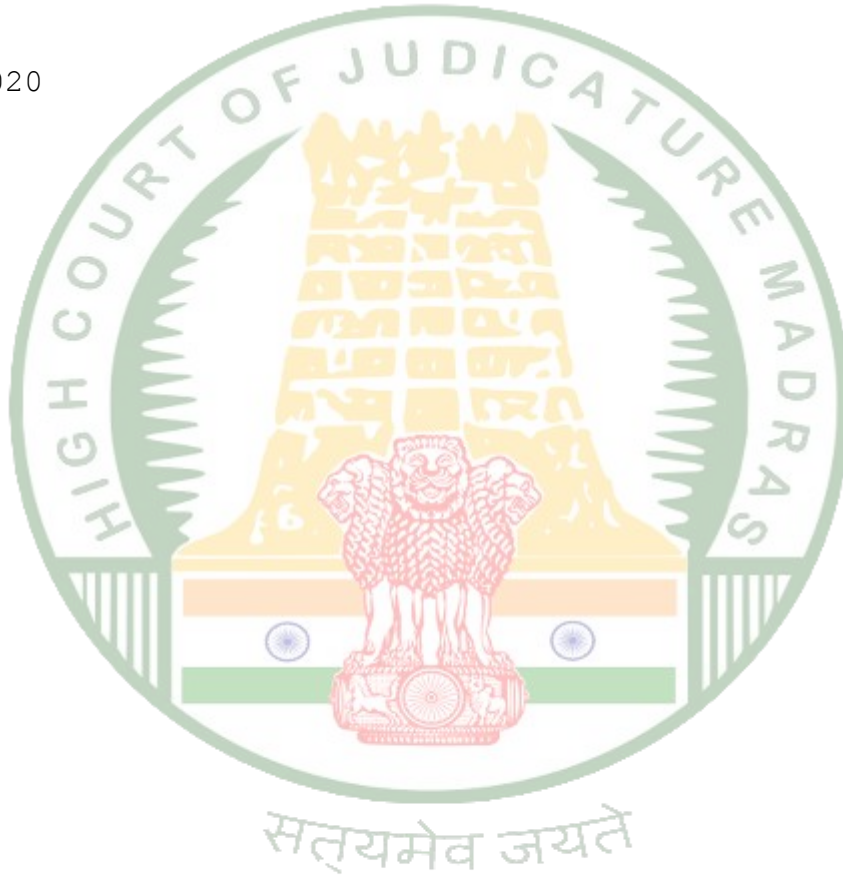
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2.The Section Officer,
V.R. Section,
High Court, Madras.

+1 cc to Mr.J.Chandran Advocate sr67671
+1 cc to Mr.C.Thamilarasan Advocate sr67160

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