

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.123 OF 2017

S.Kumaraguru

... Appellant/Petitioner

Vs

1. A.Karthick
(1st respondent remained ex-parte before the Tribunal and hence notice may be dispensed with).
2. Reliance General Insurance Co.Ltd.,
Anna Nagar, Chennai-40.
Now at Heavitree, Unit No.1, III Floor
23, Spur Tank Road, Chetpet,
Chennai-31.

... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 03.08.2015 made in MCOP No.487 of 2012 on the file of the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee.

For Appellant : Mr.A.N.Viswanathan Rao
For Respondents : Mr.S.Arunkumar for R2
R1 - Exparte

JUDGMENT

This appeal is preferred by the appellant/claimant against the award of a sum of Rs.2,61,000/- towards compensation due to the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 20.03.2012 at about 11.00 a.m., the appellant / claimant was riding the TVS-50 motorcycle bearing Reg.No. TN-01-T-4819 along the Ambattur Estate - Wavin Road. When he reached near Martin Private Limited Company, the lorry bearing Reg.No.TN-59-W-3969 belonging to the first respondent herein and insured with the second respondent

Insurance Company, came from behind from the same direction and hit against the motorcycle which the appellant was riding. Due to the said impact, the appellant sustained grievous injuries. The appellant/claimant filed a claim petition before the Tribunal, claiming a sum of Rs.5,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,61,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant-claimant has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant /claimant has submitted that even though P.W.2-Doctor examined the appellant and assessed the disability at 65% stating that there is restriction of movement of right knee to the extent of 35% and the left knee to the extent of 50% and that the injured can walk only with support and his right leg has been shortened by 2 inches, the Tribunal has not proceeded with the multiplier method to award compensation towards that head, but only fixed a meagre sum of Rs.2,000/- per percentage of disability. He submitted that the amounts awarded towards other heads are also meagre. Stating so, the learned counsel prayed for enhancement of compensation.

5.The learned counsel for the second respondent / Insurance Company has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.The details of compensation awarded by the Tribunal are as follows:

HEADS	AMOUNT (Rs.)
Permanent disability	1,30,000/-
Pain and suffering	40,000/-
Extra nourishment	25,000/-
Loss of income	45,000/-
Damages to clothes	1,000/-
Medical expenses	5,000/-
Transportation expenses	15,000/-

TOTAL...	2,61,000/-
	=====

8.It is seen that the Tribunal has awarded a sum of Rs.1,30,000/- towards 65% permanent disability at the rate of Rs.2,000/- per percentage of disability. On a perusal of the materials and evidence available on record, this Court finds that the appellant was in-patient from 20.03.2012 to 12.04.2012 and from 08.06.2012 to 23.06.2012. Both the thigh bones of the appellant have been broken due to the accident. A plate was also fixed in the right leg. Due to the accident, his right leg has been shortened by 2 inches. There was also malunion of the left thigh bone and he can walk only with the help of a stick. In the circumstances, this Court deems it fit to enhance the amount awarded by the Tribunal towards permanent disability to Rs.1,95,000/- at the rate of Rs.3,000/- per percentage of disability. The amount awarded towards medical expenses is based on Ex.P6-Medical Bills, which is an actual expenditure and the amounts awarded towards other heads are reasonable and hence the same are confirmed.

9.The details of the modified compensation are as under:

HEADS	AMOUNT (Rs.)
Permanent disability	1,95,000/-
Pain and suffering	40,000/-
Extra nourishment	25,000/-
Loss of income	45,000/-
Damages to clothes	1,000/-
Medical expenses	5,000/-
Transportation expenses	15,000/-
TOTAL...	3,26,000/-

Thus, the appellant/claimant is entitled to the modified compensation of Rs.3,26,000/-. It is made clear that only for the compensation of Rs.2,61,000/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.65,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

10.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

11.The second respondent Insurance Company is directed to deposit the modified compensation as ordered above, less the

amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant shall withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KM

To

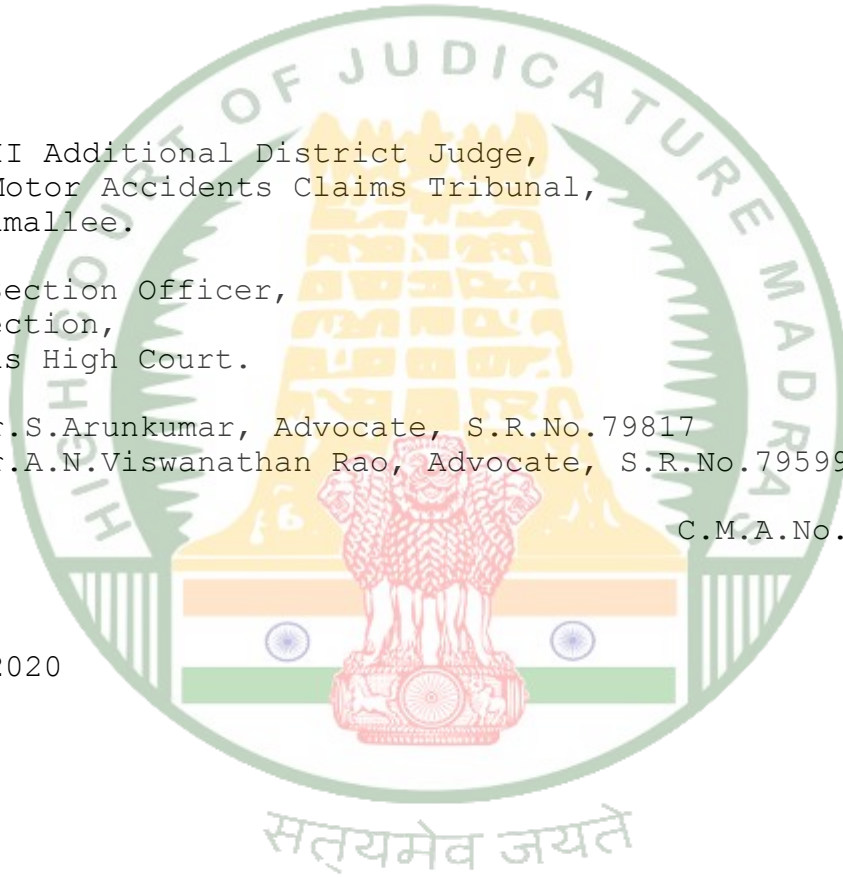
1. The II Additional District Judge,
The Motor Accidents Claims Tribunal,
Poonamallee.
2. The Section Officer,
VR Section,
Madras High Court.

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.79817

+1cc to Mr.A.N.Viswanathan Rao, Advocate, S.R.No.79599

C.M.A.No.123 of 2017

SSD(CO)
CS/08/06/2020



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