

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 13.09.2019  
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1587 of 2017

K.Vivekanandan (Minor)  
rep.by his father K.Kumar

... Appellant

Vs

The Managing Director  
Metropolitan Transport Corporation  
Chennai-600 002.

... Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 21.08.2014 made in MCOP No.487 of 2013 on the file of the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.A.A.Venkatesan

For Respondent : Mr.K.J.Sivakumar

JUDGMENT

This appeal is preferred by the appellant/claimant against the award of a sum of Rs.1,18,610/- 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 09.12.2012 at about 10.45 a.m., the appellant was travelling as pillion rider in the motorcycle bearing Reg.No.TN-18-X-8192 along the C.T.H.Road, Chennai, from East to West direction. When the two-wheeler was nearing Jagadeesh Weigh Bridge, Mannurpet, Ambattur Industrial Estate, Chennai, the bus bearing Reg.No.TN-01-N-7261 came from the opposite direction in a rash and negligent manner, on the wrong side and dashed against the motorcycle in which the appellant / claimant was travelling. Due to the said impact, both the rider and the pillion rider sustained grievous injuries. The appellant / claimant filed a claim petition before the Tribunal, claiming a sum of Rs.6,50,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,18,610/- 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 the compensation awarded by the Tribunal is meagre, as compared to the injuries sustained by the claimant. He further submitted that no amount has been awarded towards attender charges. Stating so, the learned counsel prayed for enhancement of compensation.

5.The learned counsel for the respondent / Transport Corporation has submitted that the Tribunal 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<br>(Rs.) |
|-----------------------|-----------------|
| Transport to hospital | 10,000/-        |
| Extra nourishment     | 10,000/-        |
| Medical expenses      | 8,603/-         |
| Pain and suffering    | 30,000/-        |
| Disability            | 60,000/-        |
| TOTAL...              | 1,18,603/-      |
|                       | =====           |

(Rounded off to Rs.1,18,610/-).

8.It is seen that the injuries suffered by the appellant / claimant are grievous in nature. Even though P.W.2-Doctor has assessed the disability at 35%, the Tribunal has reduced the same to 30% on the ground that P.W.3 had not given treatment to the appellant / claimant, and awarded a sum of Rs.60,000/- towards 30% disability at the rate of Rs.2,000/- per percentage of disability. It would be appropriate to award a sum of Rs.3,000/- per percentage of disability, considering the nature of injuries suffered by the claimant. Hence the amount awarded by the Tribunal towards disability stands modified to Rs.90,000/-. Considering the materials and evidence available on record, this Court is of the view that the claimant would have required the help of an attender and accordingly a sum of

Rs.10,000/- is awarded towards the head "Attender Charges". Further, awarding a sum of Rs.10,000/- towards loss of amenities, would meet the ends of justice. The amounts awarded by the Tribunal towards other heads are confirmed. The details of the modified compensation are as under:

| HEADS                 | AMOUNT<br>(Rs.)                 |
|-----------------------|---------------------------------|
| Transport to hospital | 10,000/-                        |
| Extra nourishment     | 10,000/-                        |
| Medical expenses      | 8,603/-                         |
| Pain and suffering    | 30,000/-                        |
| Disability            | 90,000/-                        |
| Attender Charges      | 10,000/-                        |
| Loss of amenities     | 10,000/-                        |
|                       | -----                           |
| TOTAL...              | 1,68,603/-                      |
|                       | =====                           |
|                       | (Rounded off to Rs.1,68,610/-). |

Thus, the appellant / claimant is entitled to the modified compensation of Rs.1,68,610/-. It is made clear that only for the compensation of Rs.1,18,610/- 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.50,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

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

10.The respondent Transport Corporation is directed to deposit the modified compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. At the time of filing of the claim petition, the appellant herein was minor aged 15 years. By this time, he would have attained the age of majority. Hence, on such deposit by the respondent Transport Corporation, the appellant / claimant shall

withdraw the same, on making proper application before the Tribunal.

Sd/-  
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

KM

To

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

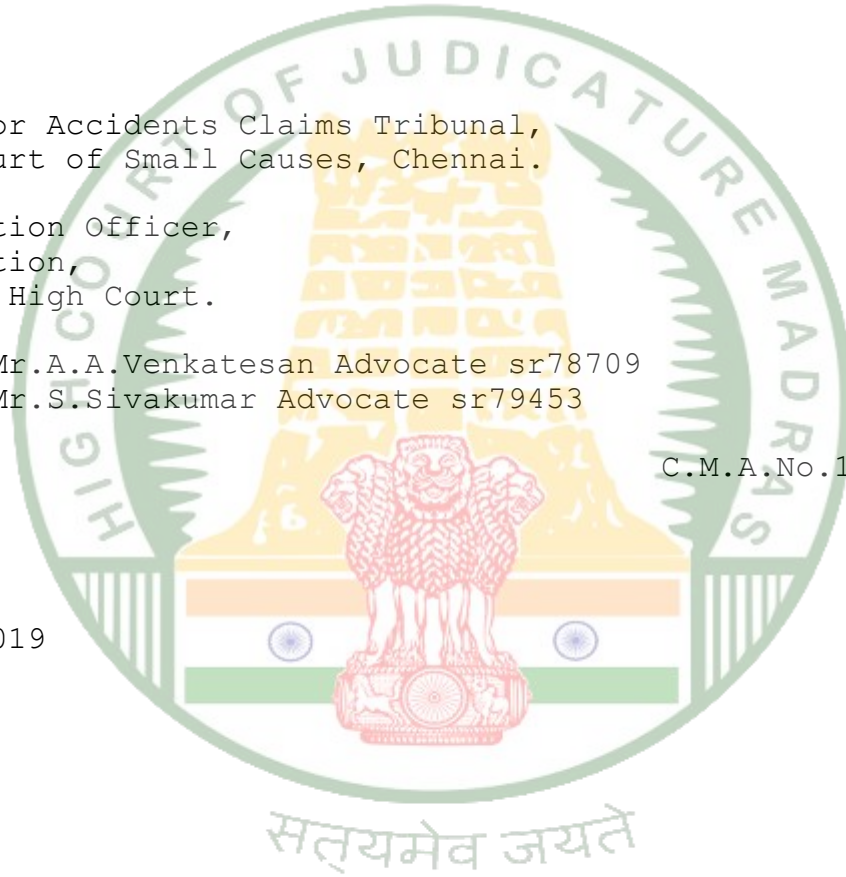
2.The Section Officer,  
VR Section,  
Madras High Court.

+1 cc to Mr.A.A.Venkatesan Advocate sr78709

+1 cc to Mr.S.Sivakumar Advocate sr79453

C.M.A.No.1587 of 2017

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