

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.10.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2198 of 2017

Minor Ashok
rep.by father and guardian
Venkatachalam

... Appellant /Petitioner

Vs

1.S.Logarsalselkrim

2.United India Insurance Company Ltd.,
5th Floor, Rohit Chambers
Janmaboomi Marg
Mumbai-400 001.

... Respondents/Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 29.12.2009 made in MCOP No.160 of 2009 on the file of the Motor Accidents Claims Tribunal (Principal District Court), Perambalur.

For Appellant : Mr.V.Anand

For Respondents : No appearance for R1
Mr.D.Baskaran for R2

JUDGMENT

This appeal is preferred by the appellant/claimant against the award of a sum of Rs.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 14.08.2007 at about 08.30 a.m., the appellant was travelling as a passenger in the Mini Bus bearing Reg.No.TN-46-D-4131, belonging to the first respondent and insured with the second respondent Insurance Company, in the Perambalur - Thuraiyur Road from West to East direction. When the said bus was nearing Drainage Bridge, half a kilometre away from Palayam village, the driver of the bus drove the bus into the mud portion of the road and attempted to proceed the bus in the road portion from the mud portion and applied the brakes. Due to the said impact, the appellant was thrown away on the

road and fell on the tractor which was parked on the northern side of the road and sustained grievous injuries. The appellant / claimant filed a claim petition before the Tribunal, claiming a sum of Rs.3,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.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 for enhancement of compensation.

4.The learned counsel for the appellant /claimant has submitted that the Tribunal has erred in awarding a meagre sum of Rs.36,000/- towards permanent disability without considering the settled principle that Rs.3,000/- has to be awarded for 1% of disability. He further 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 for the appellant and the learned counsel for the second respondent Insurance Company 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	36,000/-
Pain and suffering	20,000/-
Nutrition	5,000/-
TOTAL....	61,000/- =====

8.P.W.2-Doctor deposed before the Tribunal that the injured sustained 36% disability and he issued Ex.P6-Permanent Disability Certificate to that effect. The Tribunal has awarded

a sum of Rs.36,000/- towards permanent disability at the rate of Rs.1000/- per percentage of disability. It is seen that the appellant sustained fracture and there was restriction in the rotation and movement of his left hip and further, the length of the left leg has been reduced by 2 cms. than the right leg. Considering the injuries sustained by the claimant, it would be appropriate to award Rs.2,000/- per percentage of disability and if that is done, the amount towards permanent disability works out to Rs.72,000/-. Accordingly, the amount awarded by the Tribunal towards permanent disability stands modified to Rs.72,000/-. In view of the injuries sustained, the appellant / claimant finds it difficult to put cross legs and climb staircases, due to which he lost his comfort to a certain extent. Considering the said aspect, it would be appropriate to award a sum of Rs.14,000/- towards loss of amenities. The amounts awarded towards other heads are confirmed.

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

HEADS	AMOUNT (Rs.)
Permanent disability	72,000/-
Pain and suffering	20,000/-
Nutrition	5,000/-
Loss of amenities	14,000/-

TOTAL...	1,11,000/- =====

Thus, the appellant / claimant is entitled to the modified compensation of Rs.1,11,000/-. It is made clear that only for the compensation of Rs.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.50,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal. सत्यमेव जयते

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. The appellant / claimant who was minor at the time of filing of

claim petition, would have attained majority by now. Hence, on such deposit being made, the appellant / claimant shall withdraw the same, on making proper application before the Tribunal.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

KM

To

1.The Principal District Judge,
Motor Accidents Claims Tribunal,
Perambalur.

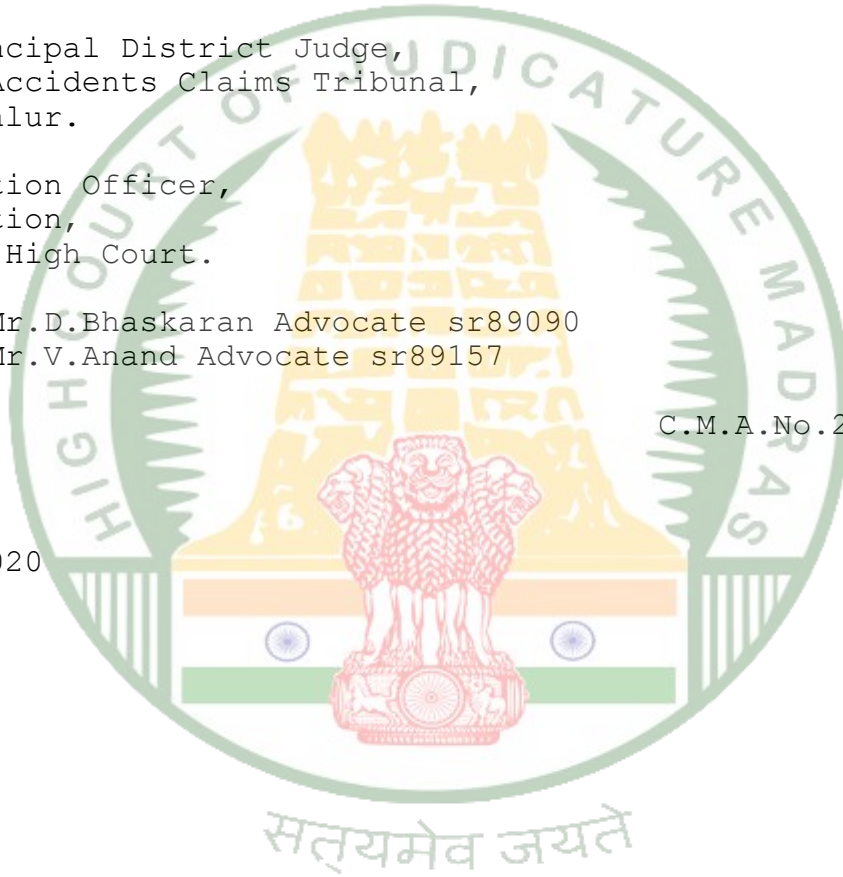
2.The Section Officer,
VR Section,
Madras High Court.

+1 cc to Mr.D.Bhaskaran Advocate sr89090

+1 cc to Mr.V.Anand Advocate sr89157

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