

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3046 of 2018
and C.M.P.No.23079 of 2018

Sivagurunathan

.. Appellant

Vs.

1.Packiaraj

2.United India Insurance company Limited,
Having Office at
61/2694, South Main Road,
(Indian Bank Upstairs),
Thanjavur Town and District.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 27.03.2017 made in M.C.O.P.No.145 of 2014 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Mayiladuturai.

For Appellant : Mr.S.Sounthar

For R2 : Mr.T.Ravichandran

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 27.03.2017 made in M.C.O.P.No.145 of 2014 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Mayiladuturai.

2.By consent of both the parties, this appeal is taken up for final disposal at the admission stage itself.

3.The appellant is claimant in M.C.O.P.No.145 of 2014 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Mayiladuturai. He filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 21.04.2013.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the car belonging to the first respondent and directed the second respondent being the insurer of the first respondent's vehicle, to pay a sum of Rs.65,000/- as compensation to the appellant.

5.Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

6.The learned counsel appearing for the appellant contended that the appellant is not able to do his work as he was doing earlier, due to the injuries sustained by him in the accident. The appellant underwent surgery, plates were implanted and the Tribunal ought to have awarded compensation towards future medical expenses. After surgery, the appellant could not drive two wheeler and hence, the Tribunal ought to have applied multiplier method for granting compensation and prayed for enhancement of compensation.

7.Per Contra, the learned counsel appearing for the second respondent/Insurance Company contended that the injuries sustained by the appellant are only simple injuries. The appellant has not sustained any fracture. The appellant did not examine any Doctor to prove the injuries and disability. The Tribunal has considered the nature of the injuries sustained by the appellant and granted just compensation and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent and perused all the materials available on record.

9.From the materials available on record, it is seen that the appellant was admitted in the hospital on 21.04.2013 and took treatment as in-patient till 27.04.2013. The appellant has not stated in the claim petition that he underwent surgery, plates were implanted and requires money for future medical expenses. The appellant has not filed any document to show that he underwent surgery and he requires money for medical expenses. The appellant did not examine any Doctor to prove that he has suffered fracture and underwent surgery. In the absence of any evidence, the Tribunal considering Ex.P9/disability certificate that the appellant has sustained 10% disability, granted a sum of Rs.30,000/- (Rs.3,000 X 10) for 10% disability by awarding Rs.3,000/- per percentage of disability. The Tribunal has not granted any amounts towards attendant charges as well as loss of income during and after the treatment period and therefore, a sum of Rs.10,000/- each are granted under those

heads. The amounts awarded by the Tribunal under all the other heads are confirmed. 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)	Award confirmed or enhanced or granted
1.	Disability (10%)	30,000	30,000	Confirmed
2.	Pain and suffering	25,000	25,000	Confirmed
3.	Extra nourishment	10,000	10,000	Confirmed
4.	Attendant charges	-	10,000	Granted
5.	Loss of Income	-	10,000	Granted
	Total	Rs.65,000/-	Rs.85,000/-	Enhanced by Rs.20,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.65,000/- is hereby enhanced to Rs.85,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. The second 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 appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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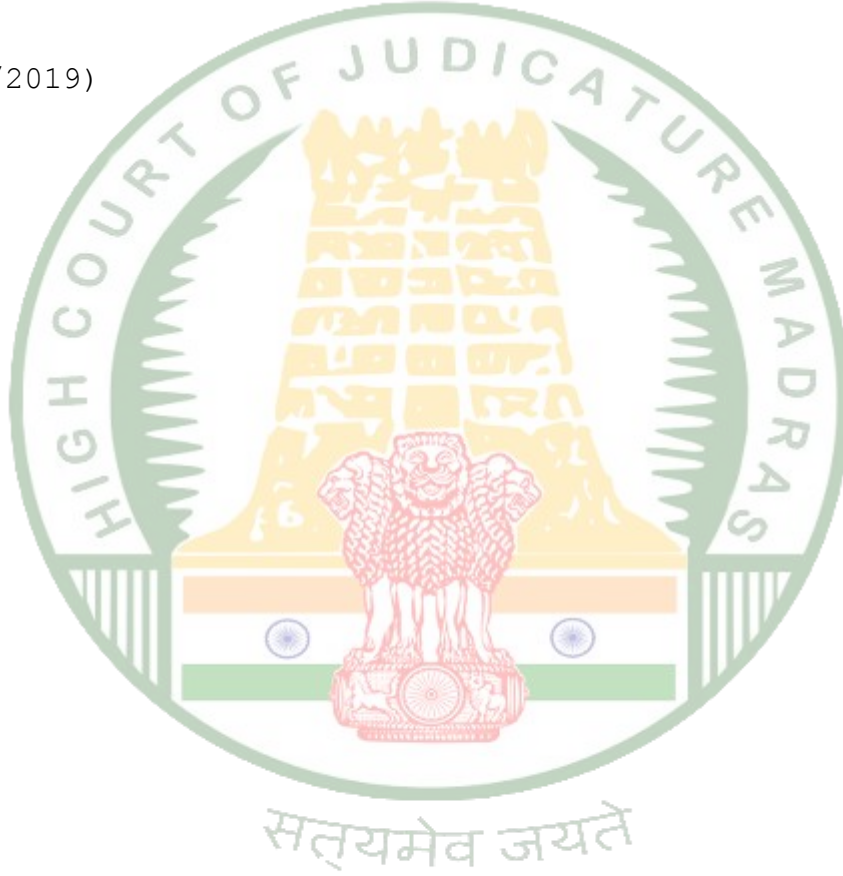
The Motor Accidents Claims Tribunal,
Principal Subordinate Judge, Mayiladuturai.

+1cc to Mr.S.Sounthar, Advocate SR.No.392

+1cc to Mr.T.Ravichandran, Advocate SR.No.603

C.M.A.No.3046 of 2018
and C.M.P.No.23079 of 2018

SPD(CO)
GMY(06/03/2019)



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