

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3125 of 2018

Praveen .. Appellant / Petitioner
Vs.

1.R.Settiya Gounder

2.The National Insurance Co., Ltd.,
1631-1/B, Salem Bhavani Main Road,
Sankari Taluk,
Salem District. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 25.06.2018, made in M.C.O.P.No.143 of 2013, on the file of the Motor Accident Claims Tribunal, (Sub Court), Tiruchengode.

For Appellant : Mr.C.Paraneedharan

For R2 : Ms.R.Sreevidhya

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant seeking enhancement of the compensation granted by the award dated 25.06.2018, made in M.C.O.P.No.143 of 2013, on the file of the Sub Court, (Motor Accident Claims Tribunal), Tiruchengode.

2.The appellant/claimant filed M.C.O.P.No.143 of 2013, on the file of the Sub Court, (Motor Accident Claims Tribunal), Tiruchengode, claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 05.05.2013.

3.The learned counsel appearing for the appellant/claimant contended that the Tribunal having fixed the negligence on the driver of the bus belonging to the 1st respondent and insured with the 2nd respondent-Insurance Company, erred in granting meagre amount as compensation. The appellant was taking treatment as inpatient in the hospital for two different periods

viz., 06.05.2013 to 25.05.2013 and 23.07.2013 to 29.07.2013, for a period of 27 days. The Tribunal has not granted any amount towards attender charges. The Tribunal also failed to grant any amount under the heads, loss of amenities, damages to clothes. The appellant is a self employee at the time of accident. For the loss of income during and after the treatment period, the Tribunal ought to have granted some amount. The amounts granted under the heads are very meagre and prayed for enhancement of the compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering all the materials on record, fixed 25% disability and granted compensation under the head permanent disability. The amounts awarded by the Tribunal under different heads are excessive and appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant as well as the 2nd respondent-Insurance Company and perused the materials on records.

6.It is the contention of the appellant that at the time of accident he was doing catering service and earning a sum of Rs.20,000/- per month. The Tribunal has not granted any amount towards loss of income during and after treatment period. Hence, fixing the monthly income of the appellant at Rs.8,000/-, a sum of Rs.96,000/- [Rs.8,000/- x 12 months] is granted towards loss of income for a period of 12 months. The appellant was taking treatment as inpatient in the Hospital for two different periods viz., 06.05.2013 to 25.05.2013 and 23.07.2013 to 29.07.2013, for a period of 27 days. The Tribunal has not granted any amount towards attender charges, loss of amenities and loss of clothes. The appellant is entitled to a sum of Rs.10,000/-, Rs.25,000/- and Rs.2,000/- under the said heads respectively. The sum of Rs.25,000/- granted towards pain and suffering is very meagre. Hence, a sum of Rs.50,000/- is granted under the said head. The amounts granted by the Tribunal under all other heads are just and reasonable and they are hereby 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.	Medical expenses	1,04,186/-	1,04,186/-	confirmed
2.	Pain and suffering	25,000/-	50,000/-	enhanced

3.	Transportation	20,000/-	20,000/-	confirmed
4.	Extra nourishment	20,000/-	20,000/-	confirmed
5.	Future medical expenses	25,000/-	25,000/-	confirmed
6.	Permanent disability	75,000/-	75,000/-	confirmed
7.	Attender charges	-	10,000/-	granted
8.	Loss of amenities	-	25,000/-	granted
9.	Damages to clothes	-	2,000/-	granted
10.	Loss of income during and after treatment period	-	96,000/-	granted
	Total	2,69,186/-	4,27,186/-	Enhanced by Rs.1,58,000/-

7. In the result, the appeal is partly allowed and compensation granted by the Tribunal at Rs.2,69,186/- is enhanced to Rs.4,27,186/- along with interest and costs. The respondents 1 and 2 are directed to jointly and severally deposit the enhanced award amount 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, to the credit of M.C.O.P.No.143 of 2013. On such deposit, the appellant/claimant is directed to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. No costs.

sd/-
Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

gsa

To

1.The Subordinate Judge,
(Motor Accident Claims Tribunal),
Tiruchengode.

2.The National Insurance Co., Ltd.,
1631-1/B, Salem Bhavani Main Road,
Sankari Taluk,
Salem District.

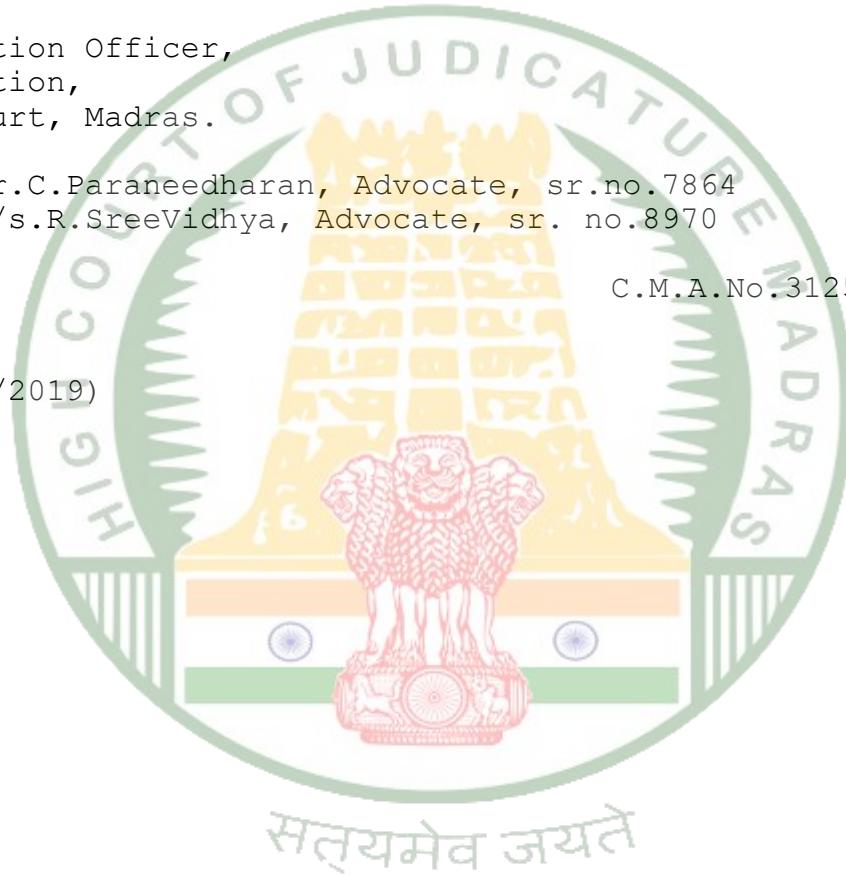
3.The Section Officer,
V.R Section,
High Court, Madras.

+2cc to Mr.C.Paraneedharan, Advocate, sr.no.7864

+1cc to M/s.R.SreeVidhya, Advocate, sr. no.8970

C.M.A.No.3125 of 2018

NRJK (CO)
RMP (09/07/2019)



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