

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3028 of 2010

Parthiban

...Appellant/Petitioner

vs.

- 1.R.Mohanasundaram
 - 2.R.Rajamani
 - 3.ICICI Lombard General Insurance Company Ltd.,
Tiruppur.
 - 4.M.Manikandan
 - 5.ABT Limited,
No.102, Coimbatore Road,
Pollachi.
 - 6.United India Insurance Company Ltd.,
No.11/2 KT Complex,
New Schemes Road,
Pollachi.
- ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.95 of 2008 by the Motor Accident Claims Tribunal (Sub-Court), Udumalpet dated 02.06.2010.

For Appellant : Mr.R.Gopala Krishnan

For Respondents : R1 - No such address
R2, R4, R5 - served - no appearance
Mrs.R.Sree Vidhya for R3
Mr.S.Arun Kumar for R6

WEB COPY
JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 02.06.2010 passed by the Motor Accident Claims Tribunal, Sub Court, Udumalpet in MCOP.No.95 of 2008.

2.Heard Mr.R.Gopala Krishnan, learned counsel for the Appellant, Mrs.R.Sree Vidhya, learned counsel for the third respondent and Mr.S.Arun Kumar, learned counsel for the sixth respondent.

3.The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned Award has filed this appeal seeking enhancement.

4.The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

Pain and suffering	- Rs.25,000/-
Medical expenditure	- Rs.1,25,440/-
Transportation	- Rs.5,000/-

Total	Rs.1,55,440/-

5.The Appellant/claimant sustained injuries on 26.10.2007 as a result of an accident caused by a vehicle insured with the third respondent. He preferred a claim before the Motor Accident Claims Tribunal, for the injuries sustained by him as a result of the accident.

6.The Motor Accident Claims Tribunal under the impugned Award dated 02.06.2010, directed the third respondent to pay the Appellant/claimant a sum of Rs.1,55,440/- as detailed supra.

7.The Appellant/claimant has sustained right hand fracture, injuries in his right shoulder and injuries all over his body. The nature of injuries sustained by the Appellant/claimant has not been disputed by the respondents before the Tribunal as seen from the evidence available on record.

8.Before the Tribunal, the Appellant/claimant has filed 11 documents which were marked as Exs.P1 to P11 and three witnesses were examined on his side namely, the Appellant/claimant himself as PW1, an eye witness to the accident as PW2 and the Doctor who examined him as PW3. On the side of the respondents, neither any document was filed nor any witness examined before the Tribunal.

9.The Doctor (PW3) has assessed the disability of the Appellant/claimant at 20%. However, the Tribunal has erroneously not awarded any compensation towards the said disability. Having sustained fracture in the right hand and having sustained injuries in his right shoulder, the Appellant/claimant ought to have been awarded disability compensation by the Tribunal. Further, the Appellant/claimant was a student aged 18 years at the time of the accident. The

Tribunal ought to have considered all these aspects and should have awarded disability compensation to the Appellant/claimant based on disability certificate Ex.P11. The year of the accident is 2007. After giving due consideration to the age of the Appellant/claimant as well as the year of the accident, this Court assesses the disability compensation at Rs.40,000/- calculated at Rs.2,000/- per percentage of disability for the 20% disability suffered by the Appellant/claimant.

10.The Appellant/claimant has incurred Rs.1,25,440/- towards his treatment which is proved through Ex.P5 medical bills. When the Appellant/claimant has incurred huge amount of expenditure towards his treatment, the Tribunal ought to have awarded compensation towards attender charges, extra nourishment and loss of amenities. But the Tribunal has erroneously failed to do so under the impugned Award. This Court assesses the compensation payable to the Appellant/claimant towards attender charges at Rs.25,000/-, Rs.15,000/- towards extra nourishment and Rs.15,000/- towards loss of amenities. The Tribunal has also awarded only a sum of Rs.5,000/- towards transportation cost which is low in the considered view of this Court. Accordingly, the same is enhanced to Rs.10,000/- by this Court.

11.Insofar as the compensation awarded under the impugned Award towards pain and suffering is concerned, the same is a just compensation in the considered view of this Court.

12.For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.1,55,440/- to Rs.2,55,440/- by this Court in the following manner:

20 % Disability compensation	-	Rs.40,000/-
Pain and suffering	-	Rs.25,000/-
Medical expenditure	-	Rs.1,25,440/-
Loss of amenities	-	Rs.15,000/-
Extra nourishment	-	Rs.15,000/-
Attender charges	-	Rs.25,000/-
Transportation	-	Rs.10,000/-

Total		Rs.2,55,440/-

13.In the result, the appeal is partly allowed. The third respondent is directed to deposit the modified award amount of Rs.2,55,440/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation, after deducting the amount already deposited if any, to the credit of MCOP.No.95 of 2008, on the file of the Motor Accident Claims Tribunal, Sub Court, Udumalpet, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant /claimant, through RTGS,

within a period of two weeks thereafter. The requisite Court fee, if any shall be paid by the appellant before receiving the copy of this Judgment. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

pam

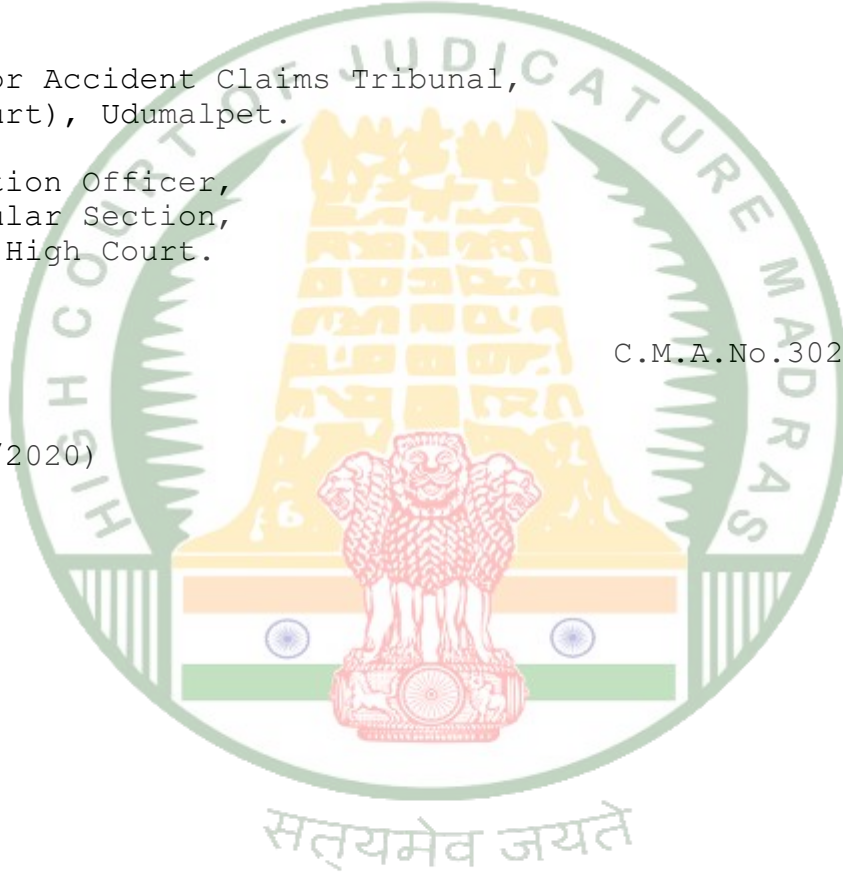
To

1.The Motor Accident Claims Tribunal,
(Sub-Court), Udumalpet.

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

C.M.A.No.3028 of 2010

MG (CO)
GMY (08/09/2020)



WEB COPY