

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1186 of 2012

M. Ramachandran

.. Appellant/Claimant

Vs.

1.J. Jayarani

2.National Insurance Co.Ltd.,

Branch Office: No.378, Mint Street,

Chennai - 600 079.

.. Respondents/Respondents

(R1 set ex-parte before the Trial Court)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 29.07.2011 made in M.A.C.T.O.P.No.4097 of 2007 on the file of Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellant : Mr. N.M.Muthurajan

For Respondents : Mr.D.Bhaskaran for R2

: R1 Ex parte.

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 29.07.2011 made in M.A.C.T.O.P.No.4097 of 2007 on the file of Motor Accident Claims Tribunal, Chief Judge Small Causes Court, Chennai.

2.The appellant is claimant in M.A.C.T.O.P.No.4097 of 2007 on the file of Motor Accident Claims Tribunal, Chief Judge Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.22,00,000/-as compensation for the injuries sustained by him in the accident that took place on 20.07.2007.

3. The case of the appellant is that on 20.07.2007 at about 17.10 hours, the appellant was riding motor cycle bearing regn.No. TN.25-Y 3032 from Sanitorium to Pallavaram and proceeding along GST road from south to north direction and near the junction of Sanitorium railway station road, the first respondent's van bearing reg. No. TN-22 B3565 was driven by its driver in a rash and negligent manner and dashed against the

motor cycle. Due to which, the appellant sustained head injury, Multiple fracture of temporal bone, multiple contusion brain, CFS leak and meningitis. SDH right frontal, parietal occipital region, fracture of lateral wall of left orbit and multiple injuries and immediately after the accident the deceased was admitted at Government Hospital, Chrompet, Chennai and thereafter, referred to Government. General Hospital, Chennai and at request discharged and treated as in patient at SRMC hospital Porur, Chennai.

4.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the van belonging to the first respondent and directed the respondents to pay a sum of Rs.3,60,000/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5.Heard Mr.M.N.Muthurajan, learned counsel appearing for the appellant / claimant and Mr.D.Bhaskaran, learned counsel appearing for the second respondent and perused the materials available on record.

6. A perusal of the records shows that the claimant has sustained sustained head injury, Multiple fracture of temporal bone, multiple contusion brain, CFS leak and meningitis. SDH right frontal, parietal occipital region, fracture of lateral wall of left orbit and multiple injuries all over the body. Dr.Saravanabavanandam (PW2) has assessed the partial permanent disability as 65% and the Tribunal has accepted the same and awarded a sum of Rs.2,000/- per percentage of disability. Considering the nature of injuries and the year of the accident, the Tribunal had rightly awarded a sum of Rs.1,30,000/- towards disability. It is seen from the claim petition that the claimant was running Tasmac bar in Sanitorium, Chennai and earning a sum of Rs.15,000/- per month. Since the accident took place in the year 2007, without any material evidence the Tribunal had rightly fixed Rs.5,000/- as notional monthly income of the claimant. As the claimant had sustained fracture of right clavical bone he would not have been in a position to attend to his routine work atleast for two months and therefore a sum of Rs.10,000/- (Rs.5,000/- x 2 months) is awarded towards "loss of income", which is hereby increased to Rs.30,000/- for six months. The Tribunal has awarded a sum of Rs.12,000/- towards "Transportation" and the same is hereby enhanced to Rs.15,000/-. The Tribunal has awarded a sum of Rs.12,000/- towards "Extra Nourishment" and the same is also hereby enhanced to Rs.15,000/-. The Tribunal has awarded a sum of Rs.1,000/- towards " Damages to clothes", which is just and reasonable and

the same is hereby confirmed. The Tribunal has awarded a sum of Rs.12,000/- towards "Pain and Sufferings", considering the nature of injuries sustained by the injured and this Court is of the opinion and inclined to award a sum of Rs.30,000/- for the same. The Tribunal has not awarded any amount towards "attender Charges" and "loss of amenities" this Court is inclined to award a sum of Rs.10,000/- and Rs.25,000/- respectively under those heads. The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this Court
1.	Disability	Rs.1,30,000/-
2.	Pain and sufferings	Rs.30,000/-
3.	Damages to clothes	Rs.1,000/-
4.	Extra Nourishment	Rs.15,000/-
5.	Transportation	Rs.15,000/-
6.	Loss of income	Rs.30,000/- (Rs.5,000/- x 6 months)
7.	Attender charges	Rs.10,000/-
8.	Loss of amenities	Rs.25,000/-
9	Medical bills	Rs.1,83,000/-
Total		Rs.4,39,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,60,000/- is hereby enhanced to Rs.4,39,000/- together along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The second respondent 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/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

sbn

To

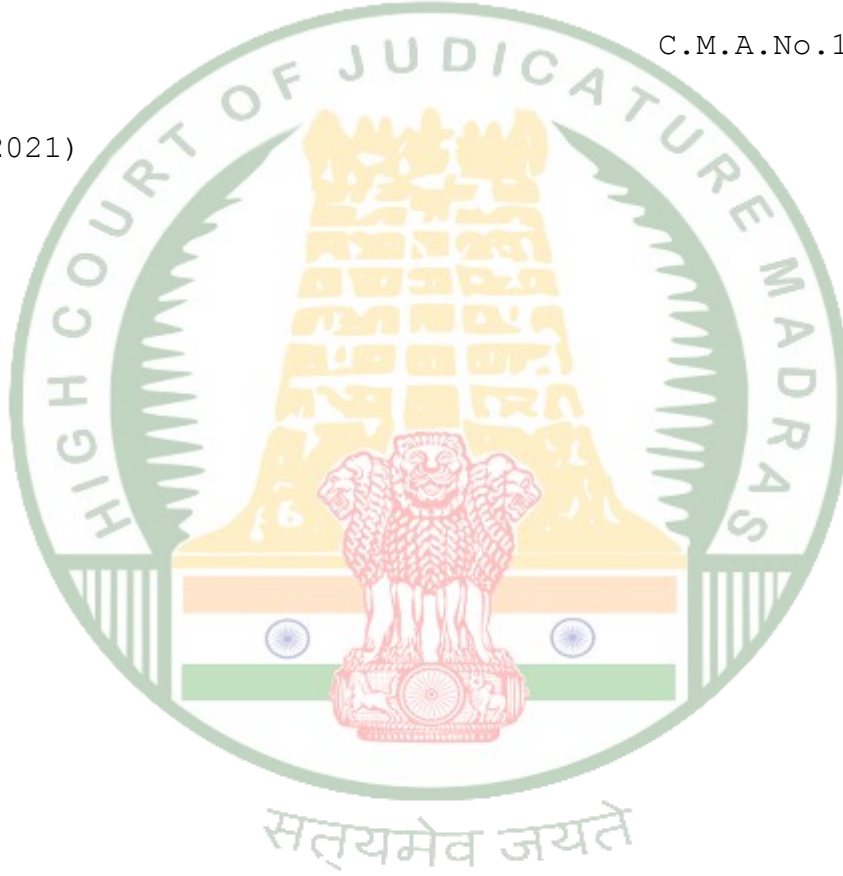
1.The Chief Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

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

+lcc to Mr.D.Bhaskaran, Advocate, S.R.No. 9535

C.M.A.No.1186 of 2012

RSV(CO)
GN(28/04/2021)



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