

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2456 of 2011
and M.P.No.1 of 2011

(Through Video Conferencing)

S.Madanagopal

... Appellant

Vs.

1.Aslam Basha

2.United India Insurance Co., Ltd.,
Rep.by its Branch Manager,
No.235, Gandhi Road,
Arni.

(1st respondent was set exparte
before the Tribunal)

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment dated 10.08.2009 made in M.C.O.P.No.38 of 2003, on the file of Motor Accident Claims Tribunal (Sub Court) Arni.

For Appellant : Mr.P.Satheesh Kumar

For 2nd respondent : Mr.D.Baskaran

J U D G M E N T

With consent of both the learned counsel for the appellant and the 2nd respondent, this Civil Miscellaneous Appeal is taken up for hearing and final disposal.

2. The appellant/claimant is aggrieved by the impugned Judgment and Decree dated 10.08.2009 passed by the Motor Accident Claims Tribunal (Sub Court) Arni in M.C.O.P.No.38 of 2003.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.20,960/- as compensation together with interest at 7.5% per annum from the date of petition till the date of deposit, to the appellant/claimant.

4. The claimant was aged about 27 years who met with an accident on 07.07.2002 at about 9.30 a.m. when he was travelling as a pillion rider in a Hero Honda motorcycle bearing Reg.No.TN-04-V-2270, when the driver of the passenger auto bearing Reg.No.TN-23-D-9119 belonging to the 1st respondent insured with the second respondent, allegedly drove the insured auto in a rash and negligent manner and hit the motorcycle, due to the said impact, the appellant fell and sustained injuries. The Tribunal has awarded the aforesaid compensation of Rs.20,960/-. Aggrieved by the same, the appellant/claimant has filed this Civil Miscellaneous Appeal for enhancement of compensation.

5. Tribunal after considering the evidence on record, the amounts awarded under the heads of disability, pain and sufferings, extra nourishment and medical expenses and after considering Ex.P.2 - copy of wound certificate and Ex.P.4 - Discharge summary, has awarded the aforesaid compensation.

6. I have considered the arguments advanced by the learned counsel for the appellant and the 2nd respondent Insurance Company. I have also perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

7. It is noticed that the appellant had not suffered disability though the Discharge Summary vide Ex.P.4 indicates that the appellant had suffered grievous injury. Under these circumstances of this case, I am inclined to enhance the amount of compensation awarded towards injury to Rs.20,000/- instead of Rs.5,000/-. It is further noticed that though the Tribunal has awarded amounts towards other conventional heads, it appears to be slightly lower.

8. Considering the above, the total amount of compensation Rs.20,960/- awarded by the Tribunal is hereby enhanced to Rs.45,960/-. A sum of Rs.5,000/- and Rs.2,500/- awarded by the Tribunal towards Disability and pain and sufferings respectively

are hereby enhanced to Rs.20,000/- and Rs.5,000/- respectively. The Tribunal has not awarded any amount towards loss of income during treatment period and conveyance expenses and therefore, this court awards a sum of Rs.2,500/- and Rs.5,000/- respectively. A sum of Rs.2,500/- awarded towards extra nourishment and Rs.10,690/- towards medical expenses are hereby confirmed. Therefore, the compensation awarded by the Tribunal to the appellant/claimant is partially modified by adding a sum of Rs.25,000/- as follows:-

Heads	Award amount of the Tribunal	Amount fixed by this Court	Status of the award amount (confirmed or enhanced or granted or reduced)
Simple injury	Rs. 5,000/-	Rs.20,000/-	Confirmed
Pain & suffering	Rs. 2,500/-	Rs. 5,000/-	Confirmed
Extra Nourishment	Rs. 2,500/-	Rs. 2,500/-	Confirmed
Medical Expenses	Rs.10,960/-	Rs.10,960/-	Confirmed
Conveyance expenses	--	Rs. 5,000/-	
Loss of income during the treatment	--	Rs. 2,500/-	
Total	Rs.20,960/-	Rs.45,960/- rounded off to Rs.46,000/-	Enhanced by another sum of Rs.25,040/- .

9. Consequently, this civil miscellaneous appeal is partly allowed and the compensation amount awarded by the Tribunal at Rs.20,690/- is hereby enhanced to Rs.46,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd 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 eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the award amount along with proportionate

interest and costs, by filing suitable application before the Tribunal, less the amount if any, already withdrawn. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

kkd/jen

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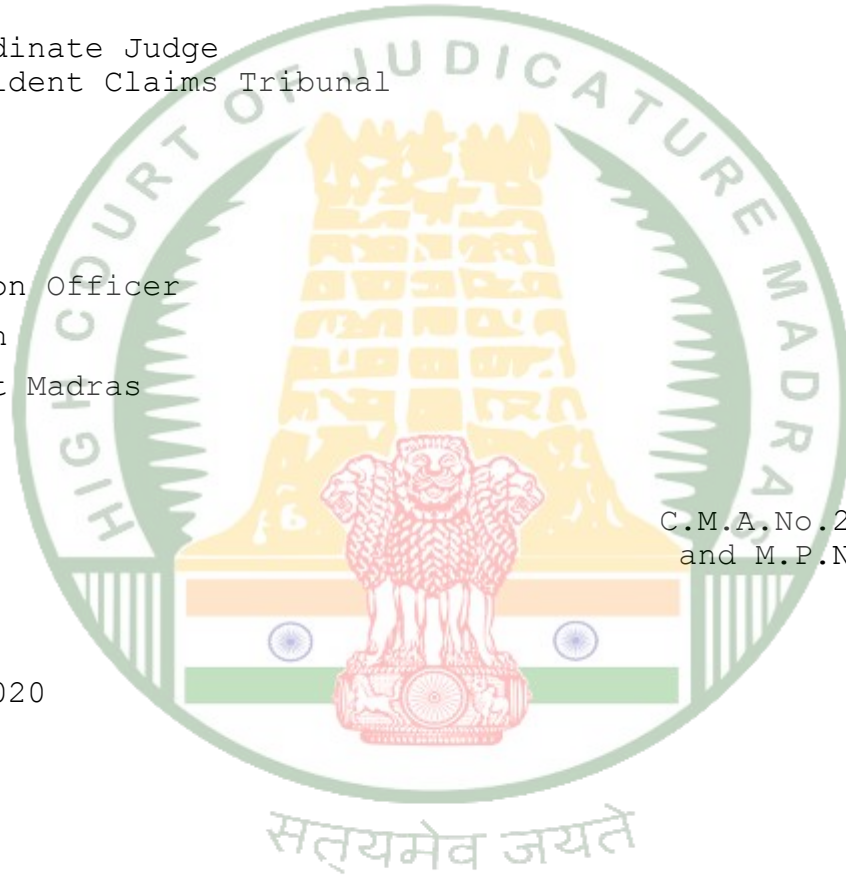
The Subordinate Judge
Motor Accident Claims Tribunal
Arni.

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The Section Officer
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