

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2056 of 2012

V.C.Radhakrishnan

... Appellant/Petitioner

Vs.

1. G.Parameshwari
(set exparte in the trial Court)

2. ICICI Lombard General Insurance Co. Ltd.,
Chottabhai Centre,
No.140, 2nd & 3rd Floor,
Nungambakkam High Road,
Chennai - 600 034. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 07.03.2012 made in M.A.C.T.O.P.No.2770 of 2008 on the file of Motor Accident Claims Tribunal, VI Judge, Small Causes Court, Chennai.

For Appellant : Mr.C.Munuswamy
for M/s. C & K Law Firm

For R1 : Set Ex-parte
For R2 : Mrs.R.Sreevidhya

JUDGMENT

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 07.03.2012 made in M.A.C.T.O.P.No.2770 of 2008 on the file of Motor Accident Claims Tribunal, VI Judge, Small Causes Court, Chennai.

2.The appellant is the claimant in M.A.C.T.O.P.No.2770 of 2008 on the file of Motor Accident Claims Tribunal, VI Judge, Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 30.05.2008.

3.The case of the appellant is that on 30.05.2008 at 23.45 hours, when the appellant was riding the motor cycle bearing Regn.No.TN-09-T-2433 along Velachery Main Road from Tambaram towards Medavakkam opposite to Gomathi Hardwares with due care and diligence, a Tipper Lorry bearing Regn.No.TN-02-Z-3497 came in a rash and negligent manner without following traffic rules and regulations and dashed against the motor cycle, due to which the appellant sustained grievous injuries.

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 Tipper lorry bearing Registration No.TN-02-Z-3497 belonging to the first respondent, insured with the second respondent and directed the second respondent to pay a sum of Rs.3,92,318/- 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 the learned counsel for the appellant and the learned counsel for second respondent and perused the materials available on record.

6.A perusal of the records shows that the claimant has sustained several injuries all over his body. The Doctor has assessed the partial permanent disability as 40% and the Tribunal after considering the injuries sustained by him, reduced the same to 33%. As far as pecuniary loss is concerned, the appellant is claiming Rs.75,000/- as compensation towards loss of earning from 01.06.2008 to 01.06.2009. To substantiate the claim of the appellant that he was working as Assistant Security Officer, no supportive evidence has been filed. However, considering the nature of work, his income was fixed as Rs.4,500/- per month and awarded a sum of Rs.2,67,300/- (Rs.4,500 X 12 X 15 X 33%) towards "Disability", which is just and reasonable and the same is hereby confirmed. The Tribunal has awarded a sum of Rs.13,500/- (Rs.4,500 X 3) towards "Loss of Income". This Court is not inclined to interfere and the same is hereby confirmed. Tribunal has awarded a sum of Rs.8,000/- towards "Transportation", which is meager and this Court is inclined to enhance the same to Rs.10,000/-. The Tribunal has awarded a sum of Rs.1,000/- towards "Damages to Clothes and articles" and the same is confirmed. The Tribunal after considering the medical bills and receipts awarded a sum of Rs.5,518/- towards "Medical Expenses", which stands confirmed hereby. The Tribunal has awarded a sum of Rs.2,000/- towards "Attender Charges", which is very meager and the same is hereby enhanced to Rs.10,000/-. The Tribunal has awarded a sum of Rs.20,000/-, Rs.25,000/- and Rs.40,000/- respectively towards "mental agony", "loss of amenities" and "pain and sufferings",

which are all just and reasonable and the same are hereby confirmed. The amounts awarded by the Tribunal under other heads are confirmed. The award passed by this Court under various heads is extracted hereunder:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	2,67,300/-	2,67,300/-	confirmed
2.	Transportation	8,000/-	10,000/-	enhanced
3.	Extra Nourishment	10,000/-	10,000/-	confirmed
4.	Damages to Clothes	1,000/-	1,000/-	confirmed
5.	Medical Expenses	5,518/-	5,518/-	confirmed
6.	Attender Charges	2,000/-	10,000/-	enhanced
7.	Mental agony	20,000/-	20,000/-	confirmed
8.	Loss of amenities	25,000/-	25,000/-	confirmed
9.	Pain and Sufferings	40,000/-	40,000/-	confirmed
10.	Loss of earning for three months	13,500/-	13,500/-	confirmed
Total		Rs.3,92,318/-	Rs.4,02,318/-	enhanced by Rs.10,000/-

6. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,92,318/- is hereby enhanced to Rs.4,02,318/- 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 IX)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
VI Judge, Small Causes Court, Chennai.

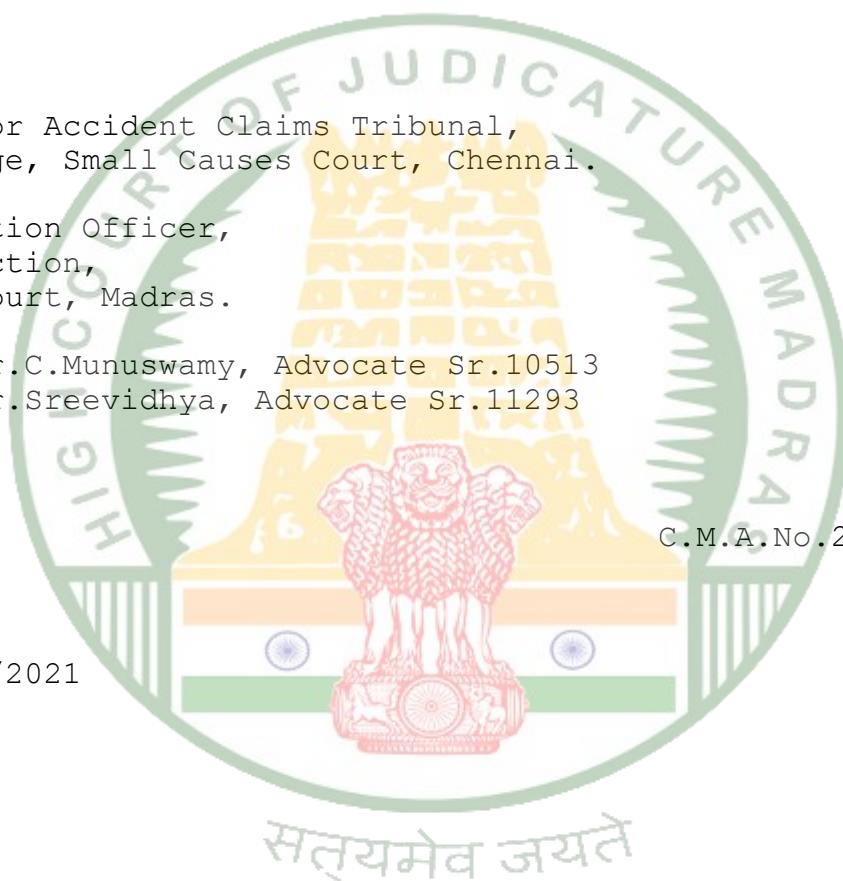
2.The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.C.Munuswamy, Advocate Sr.10513

+1cc to Mr.Sreevidhya, Advocate Sr.11293

C.M.A.No.2056 of 2012

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