

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2020

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1922 of 2013

Karuppasamy

..Appellant/Petitioner

Vs

1. C.Mekkavan

2. The Branch Manager,
United India Insurance Company Limited,
Sardar Plaza, first floor,
48, Arcot Road, Saligamam, Chennai-93.

3. The Managing Director,
Tamilnadu State Transport Corporation,
Kancheepuram.

.. Respondents/Respondents

(first respondent was set-exparte before the Trial Court,
hence, he is not necessary party in this appeal.
Hence, dispense with issuing notice to the first respondent)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988 to set aside the order made in
M.C.O.P.No.199 of 2007 on the file of the Motor Accident Claims
Tribunal, Subordinate Judge, Namakkal, dated 27.03.2012 and for
enhancement of compensation.

For appellant : Mr.R.Naliyappan

For Respondents: R1 - Ex-parte
Mrs.I.Malar For R2
Mr.K.Moorthy for R3

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for
enhancement of compensation of the award dated 27.03.2012 made
in M.C.O.P.No.199 of 2007 on the file of the Motor Accident
Claims Tribunal, Subordinate Judge, Namakkal.

2. By consent of both the parties, this Civil Miscellaneous
Appeal is taken up for final disposal.

3. The appellant herein is the claimant in M.C.O.P.No.199 of 2007 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Namakkal. He filed the above said claim petition claiming a sum of Rs.4,00,000/- as compensation for the injuries sustained by him in the accident that took place on 11.05.2007.

4. The case of the appellant is that on 11.05.2007 at about 07.30PM, while the appellant was travelling in Kancheepuram to Tambaram main road by T.N.S.T.C. Bus bearing Regn.No.TN-21-N-0889, near Nallur Bus Stop, a lorry bearing Regn.No.TN-59-A-1307 driven by its driver without observing road traffic rules in a rash and negligent manner came in the opposite direction and dashed against the back side of the Bus and caused accident. Due to the said impact, the appellant sustained multiple grievous injuries all over his body.

5. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver-of the lorry belonging to the third respondent and insured with the second respondent and directed the second respondent to pay a sum of Rs.1,08,164/- as compensation to the appellant/claimant on behalf of the first respondent.

6. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

7. Heard the learned counsel appearing for the appellant as well as the second respondent and perused the materials available on record.

8. From the materials on record, it is seen that P.W.2/ Dr.S.Kathiravan has examined the appellant and assessed the disability as 35%. The Tribunal has reduced the same to 30% and awarded a sum of Rs.30,000/- towards "Disability". Considering the nature of injuries sustained by the appellant, this Court, by considering the disability fixed by PW2 as 35%, is inclined to increased the disability fixed by the Tribunal from 30% to 35% and awards a sum of Rs.70,000/- (35 X 2000 per percentage). The Tribunal has awarded a sum of Rs.15,000/- towards "pain and sufferings", which is hereby enhanced to Rs.20,000/-. The Tribunal has awarded a sum of Rs.3000/- towards "Transportation and Nutrition", which is very meager and the same is hereby enhanced to Rs.5,000/- each towards Nutrition and Transportation. The Tribunal has awarded a sum of Rs.50,164/- towards "medical expenses" and the same is hereby confirmed and rounded off as Rs.50,200/-. The Tribunal has not award any amount towards "attender charges". This Court is inclined to

award a sum of Rs.10,000/-. The amounts awarded by the Tribunal under other heads are 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.	Permanent disability	30,000/-	70,000/-	enhanced
2.	Pain and Suffering	15,000/-	20,000/-	enhanced
3.	Loss of amenities	10,000/-	10,000/-	confirmed
4.	Nutrition and transportation	3,000/-	5,000/- 5,000/-	enhanced
5.	Medical expenses	50,164/-	50,200/- (rounded off)	confirmed
6.	Attender Charges	-----	10,000/-	awarded
	Total	Rs.1,08,164/-	Rs.1,70,200/-	enhanced by Rs.62,036/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,08,164/- is hereby enhanced to Rs.1,70,200/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent-Insurance Company is directed to deposit the enhanced award amount along with interest and costs now determined by this Court, 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 is permitted to withdraw the enhanced award amount along with interest and costs, less the amount, if any, already withdrawn. No costs.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
Subordinate Judge,
Namakkal.

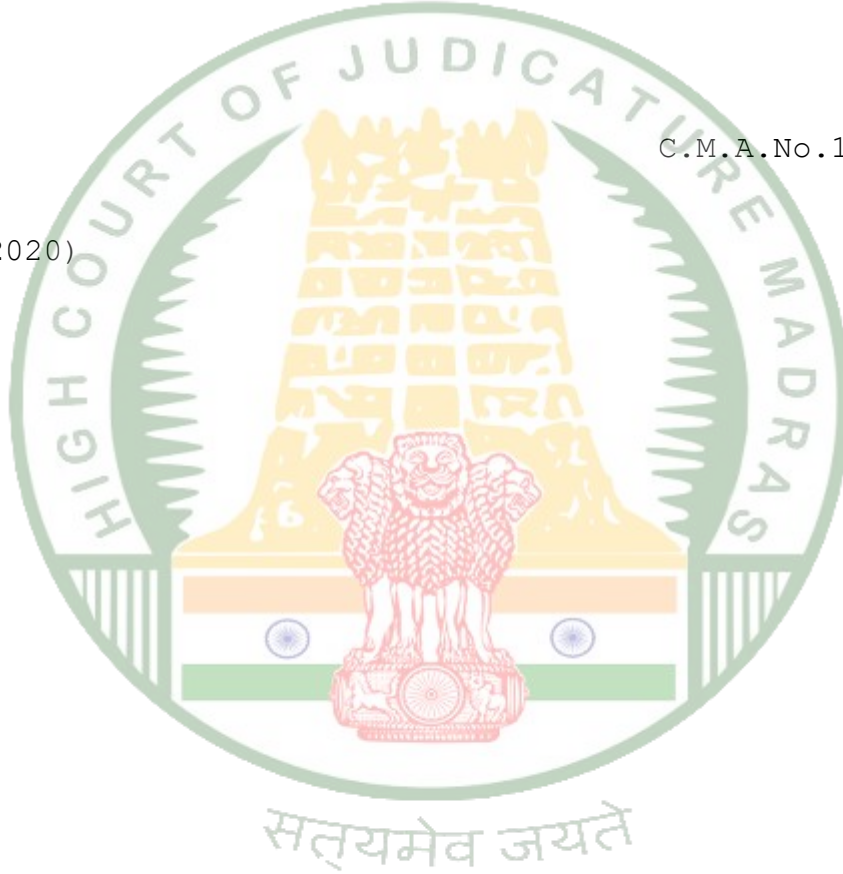
2. The Section Officer,
VR Section,
High Court,
Madras.

+lcc to M/s.I.Malar, Advocate, S.R.No.15275

+lcc to M/s.R.Nalliyappan, Advocate, S.R.No.15174

C.M.A.No.1922 of 2013

SAI (CO)
RV(08/12/2020)



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