

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.NO.2229 OF 2013

Mohan Babu

... Appellant/  
Petitioner

vs.

1. G.G.Anbarasu

2. The United India Insurance Co.,ltd.,  
Katpadi Road, Vellore.

.... Respondents/  
Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment dated 05.10.2012 in M.C.O.P.No.342 of 2010 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate Court) Vellore.

For Appellant : Mr.C.Prabakaran

For Respondents: R1- served, name printed - No appearance  
Mrs.R.Sreevidhya for R2

JUDGMENT

The appellant is the claimant in M.C.O.P.No.342 of 2010 on the file of the Chief Judicial Magistrate Court, Vellore. He filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.17,51,000/- for the injuries sustained by him in a road accident that took place on 11.03.2010.

2. On 11.03.2010, at about 09.00 am, the appellant/claimant was riding a motorcycle from Nagiri to Paraivedu village. At that time, near Kollanguppam, a Tata Mini van bearing Registration No.TN 43 8816, driven by its driver in a rash and negligent manner, hit the motorcycle, due to which, the appellant/claimant sustained grievous injuries. The contention of the appellant/claimant is that the accident took place due to the rash and negligent driving of the driver of the said Tata Mini van. Therefore, he filed the claim petition seeking

compensation for the injuries sustained by him.

3. Before the Tribunal, on the side of the appellant/claimant, PW1 and PW2 were examined and Exs.P1 to P9 were marked. On the side of the respondents, RW1 to RW3 were examined and Exs.R1 to R4 were marked.

4. The first respondent remained absent before the Tribunal and therefore, he was set ex-parte. The United India Insurance Company contested the claim petition. After analysing the evidence on record, the Tribunal awarded compensation of Rs.2,37,000/- together with interest at the rate of 7.5% per annum. Not satisfied with the award passed by the Tribunal, the appellant has filed this appeal.

5. The learned counsel appearing for the appellant/claimant submitted that the Tribunal erred in omitting certain bills under Ex.P5 issued by Miot Hospital, Chennai. The learned counsel submitted that the Tribunal failed to note that the injuries are grievous in nature. He prayed for adopting multiplier method since the appellant suffered facial disfiguration and also lost marriage prospects. He also prayed for awarding compensation under the head future medical expenses and attender's charges. He submitted that the compensation awarded under other heads are also meagre and prayed for enhancement of the same.

6. The learned counsel appearing for the second respondent submitted that the Tribunal after considering both oral and documentary evidences in a proper perspective, awarded compensation, which is not meagre. The appellant/claimant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

8. From the claim petition, it is seen that the appellant / claimant was a proprietor in a departmental stores, aged 30 years, earning a sum of Rs.20,000/- per month. In the absence of any evidence, the Tribunal fixed the notional income as Rs.3,000/- per month and it is hereby enhanced to Rs.3,500/- per month. From the wound certificate (Ex.P2), it is seen that he suffered head injury, two laceration injury in forehead 5 x 1 cm and 7 x 1 cm and laceration upper lip. In another wound certificate (Ex.P7) issued by Miot Hospital it is stated that the appellant has sustained the following grievous injuries: (i) right frontal extradural haematoma with SDH + Contusion and (ii) left mandible III with mandible fracture. The Tribunal has awarded a

sum of Rs.40,000/- for disability which is meagre. In the facts and circumstances, this Court is of the considered opinion that multiplier method has to be adopted in the instant case and the proper multiplier is 17. Considering the nature of injuries, the whole body disability is fixed at 35%. The disability is calculated as follows:

$$= 3,500 \times 12 \times 17 \times 35 / 100$$

$$= \text{Rs.}2,49,900/-$$

The Tribunal awarded Rs.9,000/- towards loss of income for three months and the same is hereby enhanced to Rs.10,500/- since the notional income is fixed as Rs.3,500/- per month. The Tribunal has not awarded any amount under the heads attender's charges and loss of amenities and therefore, Rs.5,000/- and Rs.5,000/- are awarded towards the same respectively. The appellant has produced the medical bills to the tune of Rs.4,34,016/-. However, some bills are not proper and therefore, they are unacceptable. Hence, omitting the unacceptable bills, a sum of Rs.2,90,796/- is awarded towards medical expenses. All the other heads awarded by the Tribunal are just and therefore no interference is needed. 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) |
|------|-----------------------|---------------------------------|-----------------------------------|
| 1    | Disability            | 40,000                          | 2,49,900                          |
| 2    | Transport to Hospital | 5,000                           | 5,000                             |
| 3    | Extra nourishment     | 8,000                           | 8,000                             |
| 4    | Loss of income        | 9,000                           | 10,500                            |
| 5    | Pain and sufferings   | 25,000                          | 25,000                            |
| 6    | Attender's charges    | Nil                             | 5,000                             |
| 7    | Loss of amenities     | Nil                             | 5,000                             |
| 8    | Medical expenses      | 1,50,000                        | 2,90,796                          |
|      | Total                 | Rs.2,37,000/-                   | Rs.5,99,196/-                     |

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,37,000/- is hereby enhanced to Rs.5,99,196/- together 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/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, to the credit of MCOP.No.342 of 2010 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court,

Vellore 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 modified 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

mbi

To

1. The Chief Judicial Magistrate,  
Motor Accidents Claims Tribunal,  
Vellore.

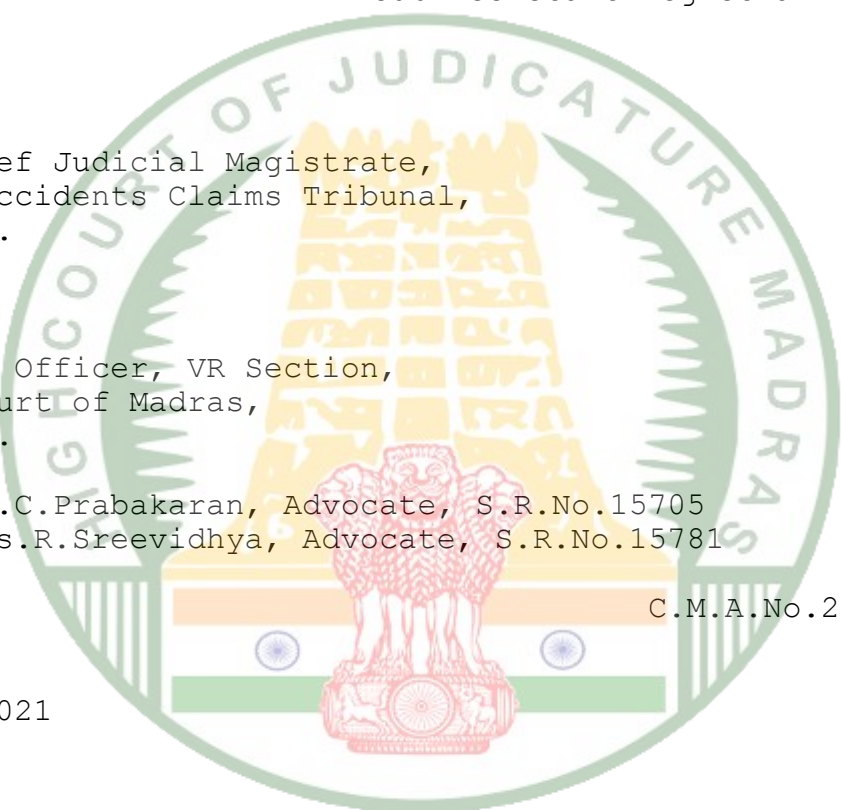
Copy To

Section Officer, VR Section,  
High Court of Madras,  
Chennai.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.15705  
+1cc to Mrs.R.Sreevidhya, Advocate, S.R.No.15781

C.M.A.No.2229 of 2013

VGI (CO)  
CS/01/02/2021

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. The gopuram is flanked by two green trees. The entire emblem is set against a white background with a green border. The text "HIGH COURT OF JUDICATURE MADRAS" is written in a circular path around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is inscribed in Devanagari script.

WEB COPY