

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3889 of 2011

R.Sakthivel

.. Appellant/Petitioner

Vs.

1.A.K.Anandhan

2.M/s.ICICI Lombard Motor Insurance,
Chennai-34. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 25.08.2011 made in M.C.O.P.No.158 of 2008 on the file of Motor Accident Claims Tribunal, Additional District and Sessions Judge, Fast Track Court No.II, Ranipet.

For Appellant : Mr.T.P.Prabakaran

For R1 : Notice not ready

For R2 : Mr.K.Poomalai

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 25.08.2011 made in M.C.O.P.No.158 of 2008 on the file of Motor Accident Claims Tribunal, Additional District and Sessions Judge, Fast Track Court No.II, Ranipet.

2.The appellant is the claimant in M.C.O.P.No.158 of 2008 on the file of Motor Accident Claims Tribunal, Additional District and Sessions Judge, Fast Track Court No.II, Ranipet. He filed the said claim petition claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 08.08.2007.

3.The case of the appellant is that on 08.08.2007 at about 10.15 a.m., the appellant met with an accident near Balaji

Petrol Bunk, Ammoor road, Ammoor, while he was travelling as pillion rider in a Two Wheeler Bajaj Boxer CD 100 driven by one S.Gopi, at that time a load-auto bearing registration No.T.N.23 A.V. 9058 was driven by its driver in a rash and negligent manner, as a result the wheel of the auto got broken, ran-away and fhit the motor cycle of the appellant, thereby sustained fracture on his right leg, fingers and several injuries all over his body.

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 load Auto bearing Registration No.T.N.23 A.V. 9058, belonging to the first respondent, insured with the second respondent and directed the first respondent to pay a sum of Rs.1,20,000/- towards 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.T.P.Prabakaran, learned counsel appearing for the appellant / claimant and Mr.K.Poomalai, learned counsel appearing for the second respondent.

6.A perusal of the records shows that the claimant has sustained fracture on his right leg, fingers and several injuries all over his body. Dr.R.Riaz Ahmed (PW2) has assessed the partial permanent disability as 35% and the Tribunal has accepted the same and awarded a sum of Rs.52,500/- (Rs.1,500/- per percentage of disability) towards "disability". Considering the nature of injuries and the year of the accident, the same is enhanced to Rs.70,000/-. (Rs.2,000/- per percentage of disability). It is seen from the claim petition that the claimant was working as a scooter mechanic and earning a sum of Rs.10,000/- per month. He has not produced any proper evidence to prove the income as required by law. Hence, in the absence of any documentary evidence, as per the precedent, the notional monthly income is fixed as Rs.6,000/- and awarded a sum of Rs.18,000/- for three months towards "loss of income", which is reasonable and the same is hereby confirmed. The Tribunal has awarded a sum of Rs.17,500/- towards "pain and sufferings" and the same is hereby enhanced to Rs.20,000/-. Considering the medical bills and receipts the Tribunal has awarded a sum of Rs.12,000/- towards "Medical Expenses" the same is hereby confirmed. The Tribunal has awarded a sum of Rs.3,000/- each towards "Nutritions", "loss of amenities", "attender charges" and "Mental Agony", this Court is inclined to award a sum of Rs.5,000/- each respectively for the same. The Tribunal has awarded a sum of Rs.3,000/- towards "Loss of Estate", the same is hereby confirmed. The Tribunal did not award any amount towards "Transportation", this Court is inclined to award a sum

of Rs.5,000/- for the same. The Tribunal has awarded a sum of Rs.5,000/- towards "Future Medical Expenses" this Court is of the opinion, the Trial Court unnecessarily awarded a sum of Rs.5,000/- and this Court is not inclined to grant any amount under this head. 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	52,500/-	70,000/-	enhanced
2.	Medical Expenses	12,000/-	12,000/-	confirmed
3.	Loss of Income	18,000/-	18,000/-	confirmed
4.	Nutrition	3,000/-	5,000/-	enhanced
5.	Attender Charges	3,000/-	5,000/-	enhanced
6.	Loss of amenities	3,000/-	5,000/-	enhanced
7.	Loss of estate	3,000/-	3,000/-	confirmed
8.	Mental agony	3,000/-	5,000/-	enhanced
9.	Future Medical Expenses	5,000/-	----	removed
10.	Transportation	-----	5,000/-	awarded
11.	Pain and Sufferings	17,500/-	20,000/-	enhanced
	Total	Rs.1,20,000/-	Rs.1,48,000/-	enhanced by Rs.28,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,20,000/- is hereby enhanced to Rs.1,48,000/- 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 first 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 Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
Fast Track Court No.II,
Ranipet.

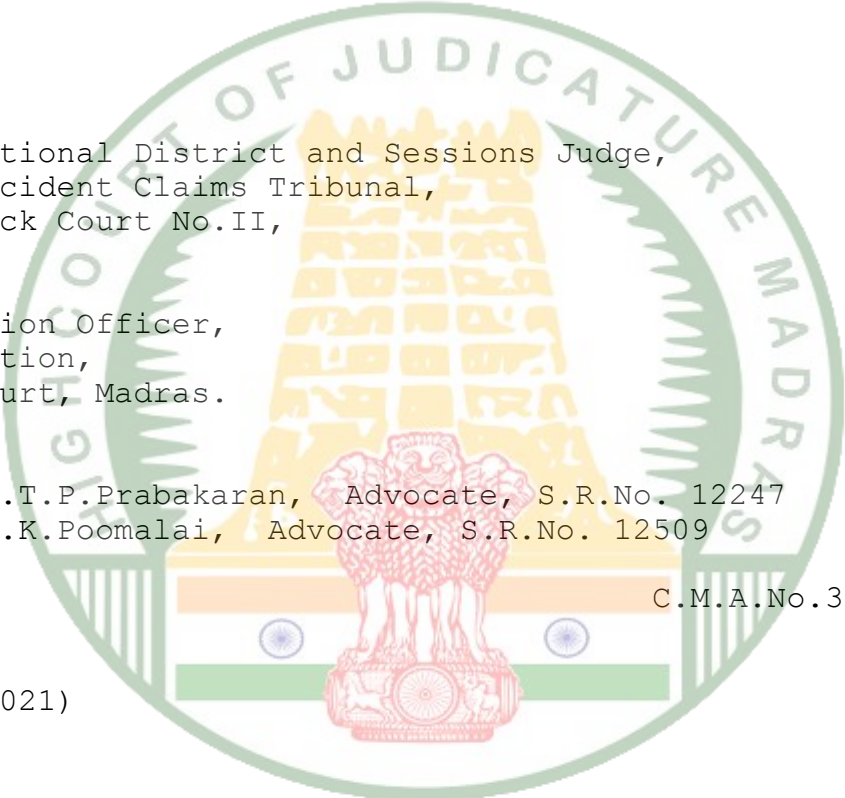
2.The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.T.P.Prabakaran, Advocate, S.R.No. 12247

+1cc to Mr.K.Poomalai, Advocate, S.R.No. 12509

C.M.A.No.3889 of 2011

GP(CO)
GN(27/04/2021)



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