

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3040 of 2012

(Through Video Conferencing)

Prabu

... Appellant/Claimant

Vs.

1. E.Jayaraman

2. The Branch Manager,
Shriram General Insurance Co. Ltd.,
No.16, 2nd Floor, City Centre Complex,
Thirumalaipillai Street,
T-Nagar, Chennai - 17. Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the order and decree made in M.C.O.P.No.41 of 2010 dated 19.03.2012 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Chengalpet and to enhance the award amount.

For appellant : M/s.Vasanthamala for
Mr.U.M.Ravichandran

For respondent (2) : Mr.K.Poomalai

R1 : Exparte

J U D G M E N T

The claimant is the appellant in this Civil Miscellaneous Appeal. The appellant/claimant has filed this appeal for enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Chengalpet vide impugned Judgment and Decree dated 19.03.2012 in M.C.O.P.No.41 of 2010.

2. By the impugned Judgment and Decree, the Tribunal has awarded the amount of compensation of Rs.3,28,992/- as against the restricted claim of Rs.7,00,000/- claimed by the appellant. In the claim petition before the Tribunal, the appellant had

quantified the total amount of compensation of Rs.17,20,000/- but had restricted to Rs.7,00,000/-.

3. The facts are not in dispute as far as the accident and the liability is concerned. In this appeal, the appellant seeks for enhancement of compensation. The appellant met with an accident on 07.12.2009 while proceeding in his two wheeler bearing registration No.TN.10-L-6508 from Thirukalikundram to Chengalpattu and at Kirabakkam speed breaker, a tipper lorry bearing registration TN.07-AT-7806 insured with the 2nd respondent is said to have knocked the appellant/claimant. As a result of the accident, the appellant/claimant suffered grievous injuries.

4. The appellant claimed that he was a wholesale agent of electrical goods and was earning a sum of Rs.10,000/- p.m at the time of accident. It was case appellant that he was admitted as an inpatient in Apollo Hospital between 07.12.2009 and 16.12.2009 and thereafter, between 16.12.2009 and 28.12.2009 in Vee Care Hospital at Chennai and continued to take treatment even on the date of the claim petition, i.e. 09.02.2010. The nature of injuries suffered by the appellant are enumerated as follows:-

- i. Fracture in ilium
- ii. Injuries in the abdominal muscle
- iii. Injuries in kidney

5. Before the Tribunal, the appellant marked Exhibits P1 to P28 and examined himself as P.W.1 and examined two physicians as P.W.2 and P.W.3. The Tribunal after considering the evidence on record has awarded a sum of Rs.3,28,992/- as compensation under the following heads:

Permanent Disability - 40% (40 x 2,000)	: Rs. 80,000/-
Medical expenses	: Rs.2,23,992/-
Pain and sufferings	: Rs. 20,000/-
Nourishment	: Rs. 5,000/-

Total : Rs.3,28,992/-

6. The learned counsel for the appellant submitted that the Tribunal erred in awarding a restricted compensation of Rs.3,28,992/-. It is submitted that a sum of Rs.1,50,000/- ought to have been awarded towards pain and sufferings and a sum of Rs.7,50,000/- towards loss of earning power and that the Tribunal ought to have been awarded a sum of Rs.50,000/- for extra nourishment instead of Rs.5,000/- considering the period of treatment undergone by the appellant/claimant. It is further submitted that due to the injury suffered by the appellant, the

Tribunal ought to have awarded a sum of Rs.1,50,000/- for loss of marital life.

7. Before the Tribunal, the appellant had also stated that he lost clothes, watch and gold ring worth about Rs.5,000/- and the motor cycle worth about Rs.15,000/-.

8. There were two Disability Certificates marked as Exhibits P26 and P27 through the P.W.2 and P.W3 doctors, wherein, they assessed the disability of the appellant as 40% and 35% respectively. The Tribunal, after considering the both, had assessed 40% disability as per Exhibit P26 Disability Certificate and the deposition of P.W2 Doctor.

9. Considering the nature of injury suffered by the appellant, I am inclined to partially enhance the compensation awarded to the appellant under the following heads:-

Sl. No.	Heads	Re-quantified amount of this Court
1	Permanent Disability - 40% (3,000 x 40)	Rs.1,20,000/-
2	Medical expenses	Rs.2,23,992/-
3	Pain and sufferings	Rs. 30,000/-
4	Nourishment	Rs. 15,000/-
5	Attender charges	Rs. 15,000/-
6	Transport expenses	Rs. 10,000/-
6	Loss of income for 6 moths (10,000 x 6)	Rs. 60,000/-
7	Loss of marital life	Rs.1,00,000/-
Total		Rs.5,73,992/-

The enhanced amount of compensation of Rs.5,73,992/- is rounded off to Rs.5,75,000/-.

10. The 2nd respondent is therefore directed to deposit the enhanced amount of compensation of Rs.5,75,000/- together with interest at 7.5% p.a from the date of claim petition till the date of deposit, less any amount already deposited in terms of the impugned order, within a period of six weeks from the date of receipt of a copy of this Judgment.

11. On such deposit, the appellant/ claimant is permitted to withdraw the same together with interest thereon, less any

amount already withdrawn, by filing suitable application before the Tribunal.

12. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No cost.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

jen
To:-

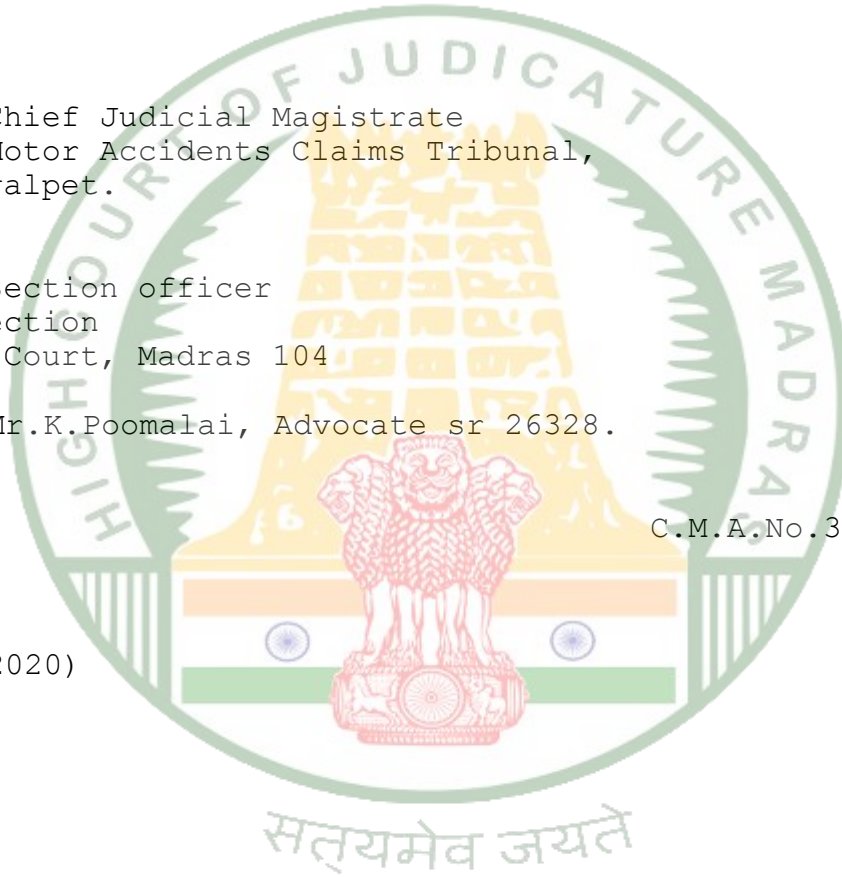
The Chief Judicial Magistrate
The Motor Accidents Claims Tribunal,
Chengalpet.

Copy to
The Section officer
VR Section
High Court, Madras 104

+1 CC to Mr.K.Poomalai, Advocate sr 26328.

C.M.A.No.3040 of 2012

SV(CO)
SP(10/11/2020)



WEB COPY