

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1674 of 2016

G.Tirupathi .. Appellant /Petitioner

Vs.

1. G.Arumugham
2. The New India Assurance Co. Ltd.,
Motor Third party Claims HUB,
Bombay Mutual Buildings, 6th Floor,
No.232, N.S.C. Bose Road,
Chennai - 600 001. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 05.03.2016 made in M.C.O.P.No.1272 of 2013, on the file of Motor Accident Claims Tribunal, II Small Causes Court, Chennai .

For Appellant : Mrs.P.T.Salim Fathima
For R1 : Exparte
For R2 : Mr.R.Neethiperumal

J U D G M E N T

The appeal is filed seeking enhancement of compensation.

2. The accident occurred on 24.01.2013 at about 08.15 hours at Poonamallee High Road near HP, Nerkundram, Chennai. On account of the accident, the appellant/claimant sustained severe multiple fracture in the back head leading to concussion of brain and heavy loss of blood, loss of memory and severe injury in the skull and chest. The claimant has taken treatment as in-patient for a considerable length of time and accordingly he filed a claim petition seeking compensation of Rs.24,00,000/-.

3. The Tribunal adjudicated the issues with reference to the documents and evidences and arrived a conclusion that the accident took place due to rash and negligent driving of the offending vehicle's driver and the petitioner sustained grievous injuries on account of such negligence. The insurance coverage was also established and the accident was also established. Thus the Tribunal proceeded to ascertain the quantum of compensation to be awarded and in this regard, the learned counsel for the appellant reiterated that even now the appellant is taking

continuous treatment, as it is the head injury. In view of the fact that the permanent disability is assessed as 40%, the Tribunal ought to have granted more compensation. However, the Tribunal has granted a sum of Rs.7,27,200/-, which is inadequate and cannot be a fair compensation.

4. The learned counsel appearing on behalf of the second respondent/Insurance company disputed the contentions by stating that the Tribunal applied multiplier taking note of the monthly income as well as age of the claimant. Therefore the Tribunal has not committed any infirmity or perversity. The Monthly income of the petitioner is fixed as Rs.6,500/- as he has stated that he was working as Sorter and packer and aged about 17 years. Taking note of the fact that the claimant at the time of accident was a minor and aged about 17 years and considering the fact that he sustained head injury, the Tribunal fixed the monthly income notionally and accordingly applied multiplier and granted compensation to the tune of Rs.7,27,200/-.

5. This Court is of the considered opinion that though the Tribunal applied multiplier, in addition to the multiplier for loss of earning future income another 1,20,000/- was granted under the head of disability. The said award of compensation is not in consonance with the principles laid down by the Hon'ble Supreme Court. However, the second respondent/Insurance company has not preferred any appeal and taking note of the fact that the claimant is a young person, this Court is not inclined to reduce the compensation already granted by the Tribunal.

6. This apart, the Tribunal granted compensation for miscellaneous expenditure and such a head is unknown and the Tribunal has committed an error in granting compensation under the head Miscellaneous Expenditure. Accordingly, the said head is to be removed and the same compensation of Rs.50,000/- is to be awarded under the head of Transport charges and Extra Nourishment.

7. Perusal of the award reveals that the Tribunal granted adequate compensation in all other heads. Thus, this Court is not inclined to interfere with the quantum of compensation awarded by the Tribunal and accordingly the Judgment and Decree dated 05.03.2016 passed in M.C.O.P.No.1272 of 2013 is confirmed and C.M.A.No.1674 of 2016 stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

rsi

To

1.The II Judge,
Court of Small Causes,
(Motor Accidents Claims Tribunal),
Chennai.

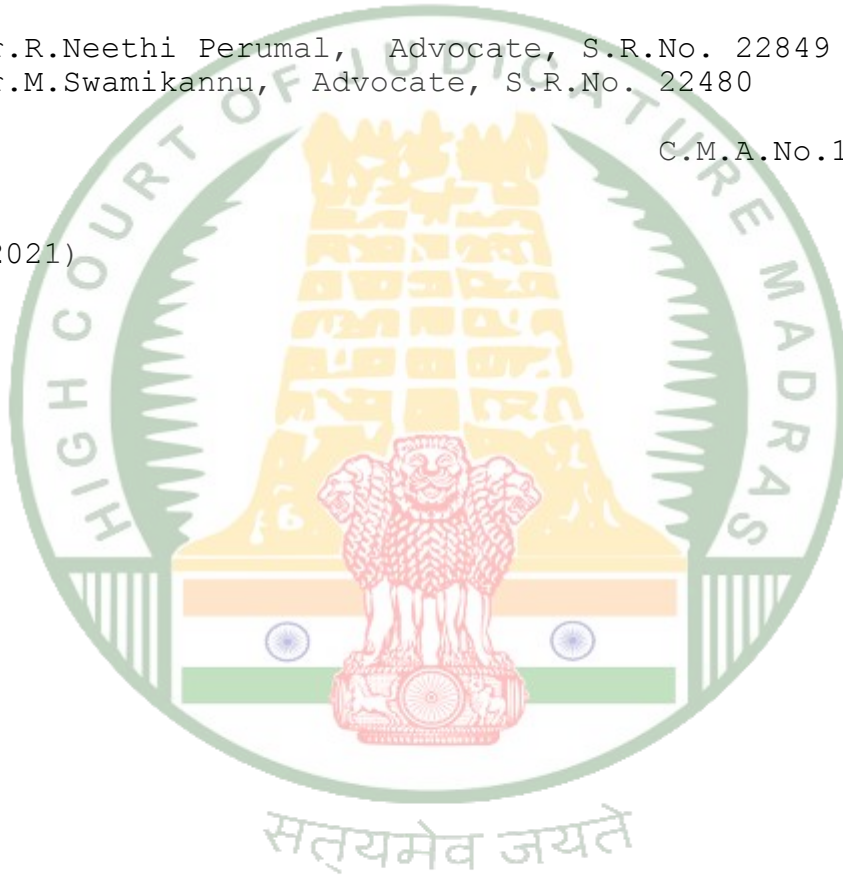
2.The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.R.Neethi Perumal, Advocate, S.R.No. 22849

+1cc to Mr.M.Swamikannu, Advocate, S.R.No. 22480

C.M.A.No.1674 of 2016

CA(CO)
GN(30/04/2021)



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