

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3446 of 2012

Mr.V.Sundar Rao

.. Appellant/Claimant

Vs.

1.M/s.Vikram Agencies,
No.19/10, 1st Main Road,
C.I.T.Colony, Chennai 600 018.

2.M/s.United India Insurance Company Limited,
Branch Office at No.30 M.T.H.Road,
Lucky Towers First Floor,
Ambattur Industrial Estate,
Chennai 600 050. .. Respondents/Respondents
(R1 Exparte in the Lower Court)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.02.2011 made in M.C.O.P.No.4797 of 2005 on the file of Motor Accident Claims Tribunal, Additional District and Sessions Judge, V Fast Track Court, Chennai.

For Appellant : Mr. T.G.Balachandran
For Respondents : Mr.S.Arun Kumar for R2
: R1 Ex parte.

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 10.02.2011 made in M.C.O.P.No.4797 of 2005 on the file of Motor Accident Claims Tribunal, Additional District and Sessions Judge, V Fast Track Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.4797 of 2005 on the file of Motor Accident Claims Tribunal, Additional District and Sessions Judge, V Fast Track Court, Chennai. 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 13.10.2005.

3. The case of the appellant is that on 13.10.2005 at 18.15 hours, the appellant, while proceeding in a cycle at Oliver Road near Isabel Hospital, the first respondent's van, bearing Regn. No. TMG 9235, driven by its driver rashly and negligently while coming behind the cycle, dashed against the cycle and knocked down the, due to which, the appellant sustained injuries.

4. 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 van belonging to the first respondent and directed the second respondent to pay a sum of Rs.86,000/- as 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.G.Balachandran, learned counsel appearing for the appellant / claimant and Mr.S.Arunkumar, learned counsel appearing for the second respondent and perused the materials available on record.

6. A perusal of the records shows that the claimant has sustained multiple grievous injuries all over the body. Dr.K.J.Mathialagan (PW2) has assessed the partial permanent disability as 45% and the Tribunal has accepted the same and awarded a sum of Rs.1,000/- per percentage of disability and awarded a sum of Rs.45,000/- towards "disability", which is the minds of the Court is very less. Hence, considering the nature of injuries and the year of the accident, this Court is inclined to award a sum of Rs.2,000/- per percentage and awarded a sum of Rs.90,000/- for the same. It is seen from the claim petition that the claimant was a retail seller of eatables and was earning a sum of Rs.5,000/- per month. Since the accident took place in the year 2005, without any material evidence, the Tribunal, has fixed Rs.3,000/- as notional monthly income of the claimant and awarded a sum of Rs.18,000/- (3000 X 6) towards "loss of income", which is less and the same is hereby enhanced to Rs.20,000/- . The Tribunal has awarded a sum of Rs.2,500/- towards "Transportation", and the same is hereby confirmed. The Tribunal has awarded a sum of Rs.2,500/- towards "Extra Nourishment". As the same is very meager, the same is hereby enhanced to Rs.5,000/-. The Tribunal, considering the medical bills and receipts, awarded a sum of Rs.5,000/- towards "Purchase of Medicine" the same is hereby confirmed. The Tribunal has awarded a sum of Rs.13,000/- towards "Pain and sufferings", which is very less and the same is hereby enhanced to Rs.15,000/-. The Tribunal did not award any amount towards "attendant charges" and "damages to clothes and articles". This

Court is of the view that awarding a sum of Rs.5,000/- and Rs.1,000/- respectively, would be just and reasonable. The award passed by this Court under various heads is tabulated below:

S.No.	Head	Amount granted by this Court
1.	Disability	Rs.90,000/-
2.	Pain and sufferings	Rs.15,000/-
3.	Damages to clothes	Rs.1,000/-
4.	Extra Nourishment	Rs.5,000/-
5.	Transportation	Rs.2,500/-
6.	Loss of income	Rs.20,000/-
7.	Attendant charges	Rs.5,000/-
8.	Medical bills	Rs.5,000/-
Total		Rs.1,43,500/-

7.In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.86,000/- is hereby enhanced to Rs.1,43,500/- 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 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-V)

//True Copy//

Sub Assistant Registrar

sbn

To

1.Motor Accidents Claims Tribunal,
Additional District and Sessions Judge,
V Fast Track Court,
Chennai.

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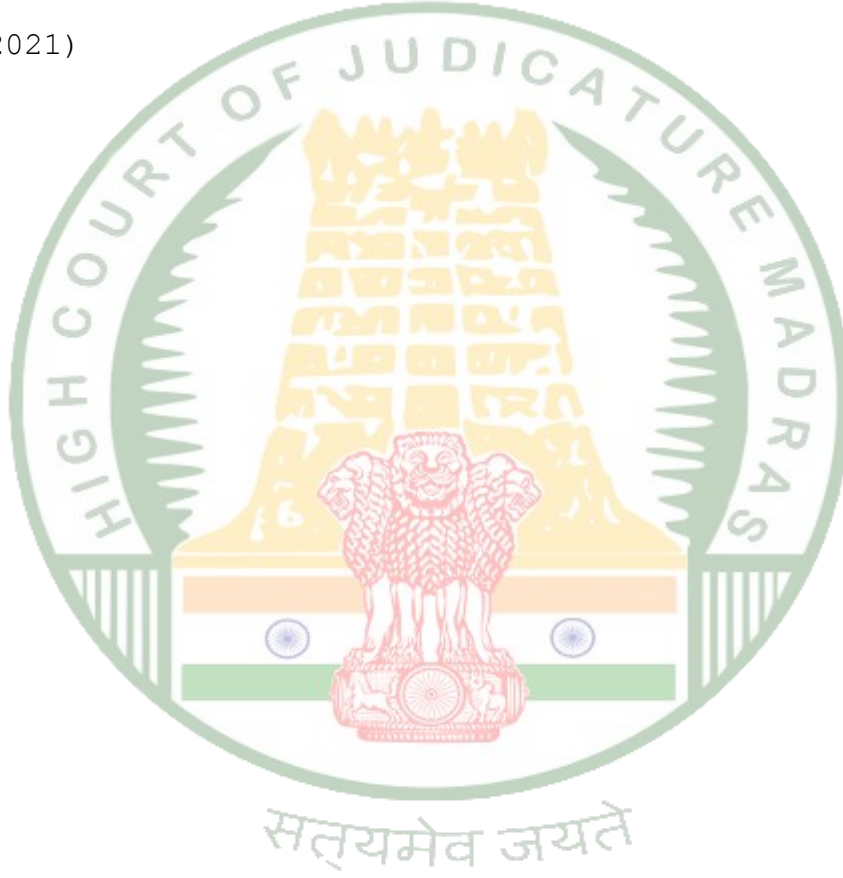
The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.T.G.Balachandran, Advocate, S.R.No.13576

+1cc to Mr.S.Arunkumar, Advocate, S.R.No. 14386

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