

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3740 of 2013

Vikram @ Gunaseelan

...Appellant

vs.

1.Narendra Kumar

(R1 remained exparte before the Tribunal)

2.Divisional Manager,
United India Insurance Co. Ltd.,
No.46, Katpadi Salai,
Vellore.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.01.2012 and made in M.A.C.T.O.P.No.180/2009 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Thiruvannamalai.

For Appellant : Mr.F.Terry Chella Raja

For Respondents : R1 - Exparte
Mr.G.Udaya Sankar for R2

JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 30.01.2012 passed by the Motor Accident Claims Tribunal (Principal Sub Judge), Tiruvannamalai in M.A.C.T.O.P.No.180 of 2009.

2.Brief facts leading to the filing of the instant appeal:

The Appellant, who is the claimant in M.A.C.T.O.P.No.180 of 2009 sustained injuries as a result of an accident caused by an auto bearing Registration No.TN-25-B-5374 while he was travelling as a passenger.

3.The Appellant preferred a claim before the Motor Accident Claims Tribunal for the injuries sustained by him as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent.

4.The Tribunal under the impugned Award has passed an Award directing the second respondent to pay compensation of Rs.91,000/- together with interest and costs to the Appellant.

5.The Appellant being unsatisfied with the quantum of compensation awarded by the Tribunal has filed this appeal seeking enhancement.

6.Heard Mr.F.Terry Challa Raja, learned counsel for the Appellant and Mr.G.Udaya Sankar, learned counsel for the second respondent. The first respondent has remained exparte both before the Tribunal as well as before this Court.

7.It is the case of the Appellant that he sustained fracture on left foot and multiple injuries all over his body. It is also his case that the left foot malunited and he had to limp while walking. It is also the case of the Appellant that the compensation awarded by the Tribunal under various heads, considering the nature of injuries sustained by him is inadequate.

8.This Court has perused and examined the materials and evidence available on record as well as the impugned Award. The Appellant was a loadman and the nature of injuries sustained by him has not been disputed by the second respond before the Tribunal. The Appellant had made a claim before the Tribunal for a sum of Rs.5,00,000/-. However, the Tribunal has awarded only a sum of Rs.91,000/- as compensation to the Appellant as detailed hereunder:

Permanent disability 25% -	Rs.50,000/-
Loss of Income -	Rs.6,000/-
Transportation -	Rs.5,000/-
Extra nourishment -	Rs.5,000/-
Pain and suffering -	Rs.25,000/-

Total	Rs.91,000/-

9.Before the Tribunal, the Appellant has filed five documents which were marked as Exs.P1 to P5 and two witnesses were examined on his side including himself (PW1) as well as his consulting Doctor namely PW2. On the side of the second respondent, neither any witness was examined nor any document filed before the Tribunal.

10.Admittedly, the Appellant was a loadman and has sustained injuries as claimed by him as seen from the wound certificate namely Ex.P2 The Doctor has assessed the disability of the Appellant at 25% as seen from Ex.P4. No contra evidence has been

produced by the second respondent before the Tribunal to disprove the disability as well as the nature of injuries sustained by him as a result of the accident.

11. Being a loadman and having sustained fractures, it is highly impossible to recover and lead a normal life within a period of two months from the date of accident. The Tribunal under the impugned Award has awarded Rs.6,000/- towards loss of income to the Appellant calculated on the basis that the Appellant would have been unable to perform his normal work as loadman for two months. In the considered view of this Court, the Tribunal ought to have awarded loss of income to the Appellant for three months and therefore a sum of Rs.6,000/- awarded by the Tribunal towards loss of income to the appellant is inadequate. Accordingly, loss of income is enhanced from Rs.6,000/- to Rs.13,500/- calculated at the rate of Rs.4,500/- per month instead of Rs.3,000/- per month assessed by the Tribunal as the notional income of the Appellant. As seen from the impugned Award, the Tribunal has not awarded any compensation towards medical expenses incurred by the Appellant for his treatment. Considering the nature of the accident and nature of the injuries sustained by the Appellant, this Court is of the considered view that a sum of Rs.7,500/- will be an adequate sum to compensate the Appellant towards medical expenses incurred by him for his treatment. Insofar as other heads under which compensation has been awarded by the Tribunal are concerned, this Court is of the considered view that the same is reasonable sum and does not call for any interference.

12. For the foregoing reasons, the impugned Award passed by the Tribunal is modified in the following manner:

Permanent disability 25%	-	Rs.50,000/-
Loss of Income	-	Rs.13,500/- (Rs.4,500 x 3 months)
Transportation	-	Rs.5,000/-
Extra nourishment	-	Rs.5,000/-
Pain and suffering	-	Rs.25,000/-
Medical expenses	-	Rs.7,500/-
Total	-	Rs.1,06,000/-

13. In the result, the Appeal is partly allowed by enhancing the compensation from Rs.91,000/- to Rs.1,06,000/-. The second respondent is directed to deposit the modified award amount of Rs.1,06,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation and costs, after deducting the amount already deposited if any, to the credit of M.A.C.T.O.P.No.180 of 2009 within a period of four

weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Appellant is permitted to withdraw the amount along with accrued interest lying to the credit of M.A.C.T.O.P.No.180 of 2009. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

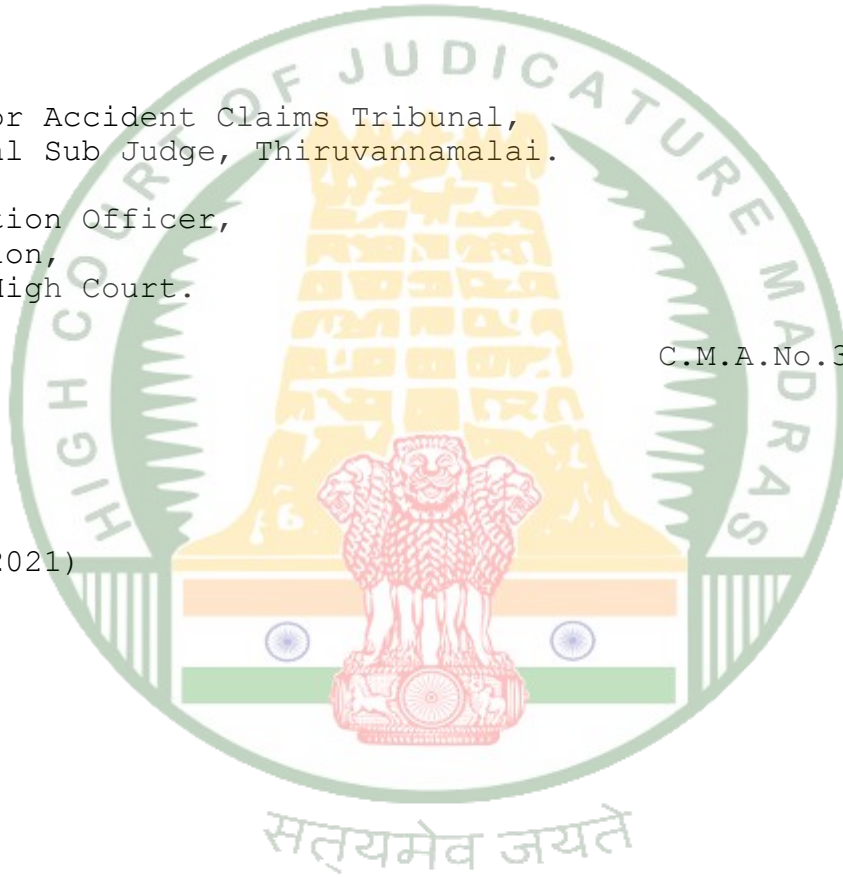
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To

1.The Motor Accident Claims Tribunal,
Principal Sub Judge, Thiruvannamalai.

2.The Section Officer,
VR Section,
Madras High Court.

C.M.A.No.3740 of 2013

GJ(CO)
SP(02/02/2021)



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