

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.905 of 2013

Paramasivam

.. Appellant/Petitioner

Vs.

1.M.Prem Kumar

2.Universal Sompo General Insurance Co. Ltd.,
Capitale Towers,
5th Floor, B Wing,
No.554-555, Anna Salai,
Teynampet, Chennai.

.. Respondents/Respondents

(First respondent set exparte before
the Trial Court. Hence, notice may be dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.10.2012 made in M.C.O.P.No.1691 of 2011 on the file of Motor Accident Claims Tribunal, XVII Additional Judge, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For R1 : Ex-Parte

For R2 : Mrs.R.Sreevidhya

JUDGMENT

The Civil Miscellaneous Appeal is filed by the appellant seeking enhancement of compensation granted by the Tribunal in the award dated 31.10.2012 made in M.C.O.P.No.1691 of 2011 on the file of Motor Accident Claims Tribunal, XVII Additional Judge, Chennai.

2. The appellant is the claimant in M.C.O.P.No.1691 of 2011 on the file of Motor Accident Claims Tribunal, XVII Additional Judge, Chennai. He filed the said claim petition claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 12.03.2011.

3. The case of the appellant is that on 12.03.2011 at about 21.00 hours, while the appellant was riding a motorcycle bearing Regn. No.TN-09-AS-6538 at a place near Sir Rajamuthaiah Salai opposite to Canara Bank from North to South direction, a auto bearing Regn. No.TN-04-AF-1906 driven by its driver in a rash and negligent manner came from behind and dashed against the appellant. Thereby, the appellant sustained multiple injuries all over the 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 a auto bearing Regn. No.TN-04-AF-1906, belonging to the first respondent, insured with the second respondent, and directed the respondents to pay a sum of Rs.1,41,269/- 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.K.Varadha Kamaraj, learned counsel appearing for the appellant and Mrs.R.Sreevidhya, 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 comminuted fracture of right clavical and multiple injuries all over the body. Dr.N.Saichandran (PW2) has assessed the partial permanent disability as 25% and the Tribunal has reduced the same to 20% and awarded a sum of Rs.40,000/- (Rs.2,000/- per percentage of disability) towards "disability". Considering the nature of injuries and the year of the accident, the same is enhanced to Rs.60,000/- (Rs.3,000/- per percentage of disability). It is seen from the claim petition that the claimant was working as an in-charge in a private concern and earning a sum of Rs.9,000/- per month. He has not produced any documents to show his income. Hence, the Tribunal has awarded a sum of Rs.18,000/- towards "loss of income" and the same is hereby enhanced to Rs.24,000/-. The Tribunal has awarded a sum of Rs.10,000/- towards "pain and sufferings". The same is hereby enhanced to Rs.15,000/-. After considering the medical bills and receipts, the Tribunal has awarded a sum of Rs.69,269/- towards "Medical Expenses", which is just and reasonable and hence, the same stands confirmed. The Tribunal has awarded a sum of Rs.2,000/- each towards "Nutrition" and "Transportation". The same is hereby enhanced to Rs.5,000/- each. The amounts awarded by the Tribunal under other heads are confirmed. 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	40,000/-	60,000/-	enhanced
2.	Pain and Sufferings	10,000/-	15,000/-	Enhanced
3.	Medical Expenses	69,269/-	69,269/-	Confirmed
4.	Nutrition	2,000/-	5,000/-	Enhanced
5.	Transportation	2,000/-	5,000/-	Enhanced
6.	Loss of income	18,000/-	24,000/-	Enhanced
Total		Rs.1,41,269/-	Rs. 1,78,269/-	enhanced by Rs.37,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,41,269/- is hereby enhanced to Rs.1,78,269/- 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 respondents are 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-II)

//True Copy//

Sub Assistant Registrar

sbn

To

1. The Motor Accident Claims Tribunal,
XVII Additional Judge,
Chennai.

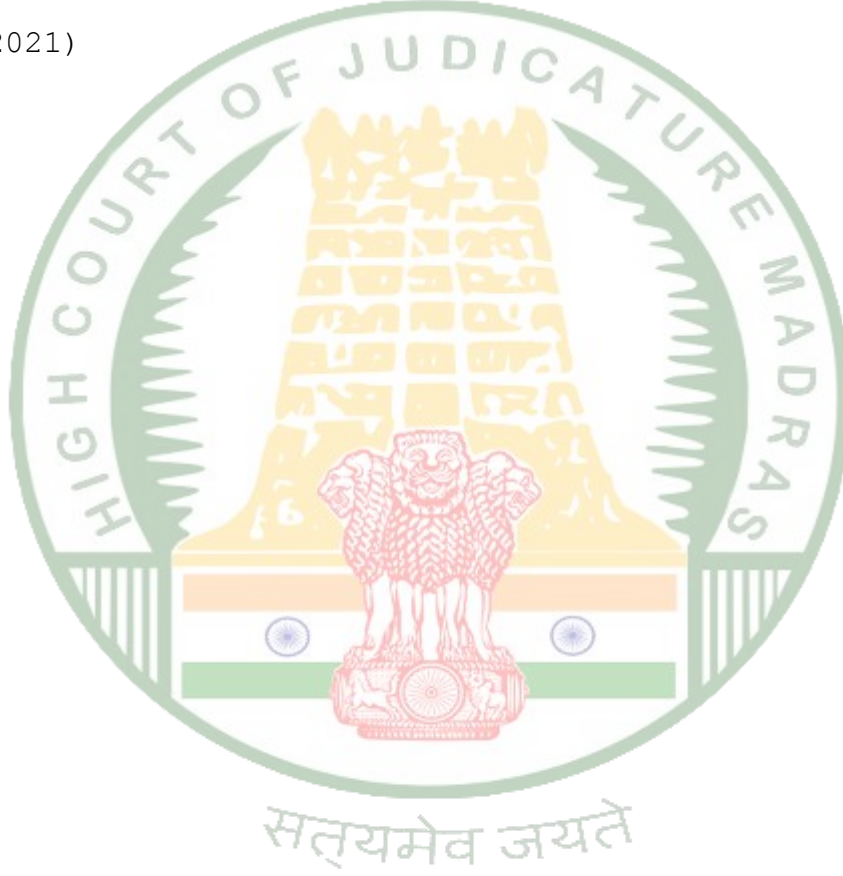
Copy To

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

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No. 4321
+1cc to Mr.R.Sreevidhya, Advocate, S.R.No. 5185

C.M.A.No.905 of 2013

RR(CO)
GN(29/04/2021)



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