

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1691 of 2014

D.Sajith

.. Appellant /Petitioner

Vs.

1.M/s.Siva Ramakrishnan Foring Pvt. Ltd.
No.25, Sidco Industrial Estate
Thirumudivakkam
Chennai-44.

2.Future General India Insurance Company
Karumuthu nilayam
No.192, Anna salai
Chennai-600 002.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 10.02.2014 made in M.C.O.P.No.660 of 2011 on the file of Motor Accident Claims Tribunal, II Additional District Court, Tiruvallur at Poonamallee.

For Appellant : Mr.K.Varadha Kamaraj

For R1 : No appearance

For R2 : Mr.E.Rajadurai for Mr.N.Vijayaraghavan

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 10.02.2014 made in M.C.O.P.No.660 of 2011 on the file of Motor Accident Claims Tribunal, II Additional District Court, Tiruvallur at Poonamallee.

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2.The appellant is claimant in M.C.O.P.No.660 of 2011 on the file of Motor Accident Claims Tribunal, II Additional District Court, Tiruvallur at Poonamallee. He filed the said claim petition claiming a sum of Rs.4,00,000/- as compensation for the injuries sustained by him in the accident that took place on 22.05.2011.

3.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 car belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said car to pay a sum of Rs.81,320/- as compensation to the appellant.

4.Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellant contended that the appellant suffered grievous injuries in the accident. He has taken treatment in MIOT hospital and Cosh hospital and marked the discharge summaries as Exs.P2 and P3. The appellant was working as a computer service engineer at the time of accident and was earning a sum of Rs.10,000/- per month. Due to the injuries, the appellant lost his future prospects. The Tribunal has not awarded any compensation towards disability, loss of income, damage to clothes, attendant charges and loss of amenities. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellant has not examined any doctor and has not produced any disability certificate to prove his injuries. Therefore, the appellant is not entitled to any compensation towards disability. The Tribunal after considering all the materials available on record, awarded just compensation. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7.Though notice has been served on the 1st respondent and their name is printed in the cause list, there is no representation on behalf of the 1st respondent either in person or through counsel.

8.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent/Insurance Company and perused all the materials

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available on record.

9.It is the contention of the appellant that he was working as a computer service engineer at the time of accident and was earning a sum of Rs.10,000/- per month. The appellant marked the appointment order as Ex.P6 and bank statement as Ex.P8 to prove the said contention. The Tribunal considering the same, held that the appellant has not lost his income, he received full salary during the treatment period and therefore, the appellant is not entitled to any compensation towards loss of income. The reason assigned by the Tribunal for not granting compensation for loss of income is not correct. The appellant has examined the author of Ex.P6 to prove that he was earning Rs.10,000/- per month. The accident is of the year 2011 and hence, a sum of Rs.8,000/- is fixed as monthly income of the appellant. Due to the injuries, the appellant would not have attended his work atleast for three months. Therefore, a sum of Rs.24,000/- (Rs.8,000/- X 3) is awarded towards loss of income for three months.

9(i).The appellant contended that he suffered grievous injuries in the accident. He has taken treatment in MIOT hospital and Cosh hospital and marked the discharge summaries as Exs.P2 and P3. The Tribunal has not awarded any compensation towards disability on the ground that the appellant has not examined the doctor, who has treated the appellant and he has not produced any disability certificate to prove his disability. In view of the above, the appellant is not entitled to any compensation towards disability.

9(ii).As per Exs.P2 and P3/discharge summaries, the appellant has taken treatment as in-patient in Cosh hospital, from 22.05.2011 to 27.05.2011 and in MIOT hospital, from 02.06.2012 to 08.06.2012 respectively. The Tribunal has not awarded any compensation towards attendant charges and damage to clothes. Considering Exs.P2 and P3, Rs.13,000/- and Rs.2,000/- are awarded towards attendant charges and damage to clothes respectively. A sum of Rs.5,000/- awarded by the Tribunal towards extra nourishment is meagre and hence, the same is hereby enhanced to Rs.10,000/-. The amounts awarded by the Tribunal under all other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

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S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Medical bills	51,320	51,320	Confirmed
2.	Pain and suffering	20,000	20,000	Confirmed
3.	Transportation	5,000	5,000	Confirmed
4.	Extra nourishment	5,000	10,000	Enhanced
5.	Loss of income	-	24,000	Granted
6.	Attendant charges	-	13,000	Granted
7.	Damage to clothes	-	2,000	Granted
	Total	81,320	1,25,320	Enhanced by Rs.44,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.81,320/- is hereby enhanced to Rs.1,25,320/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent/Insurance Company 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 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-IX)

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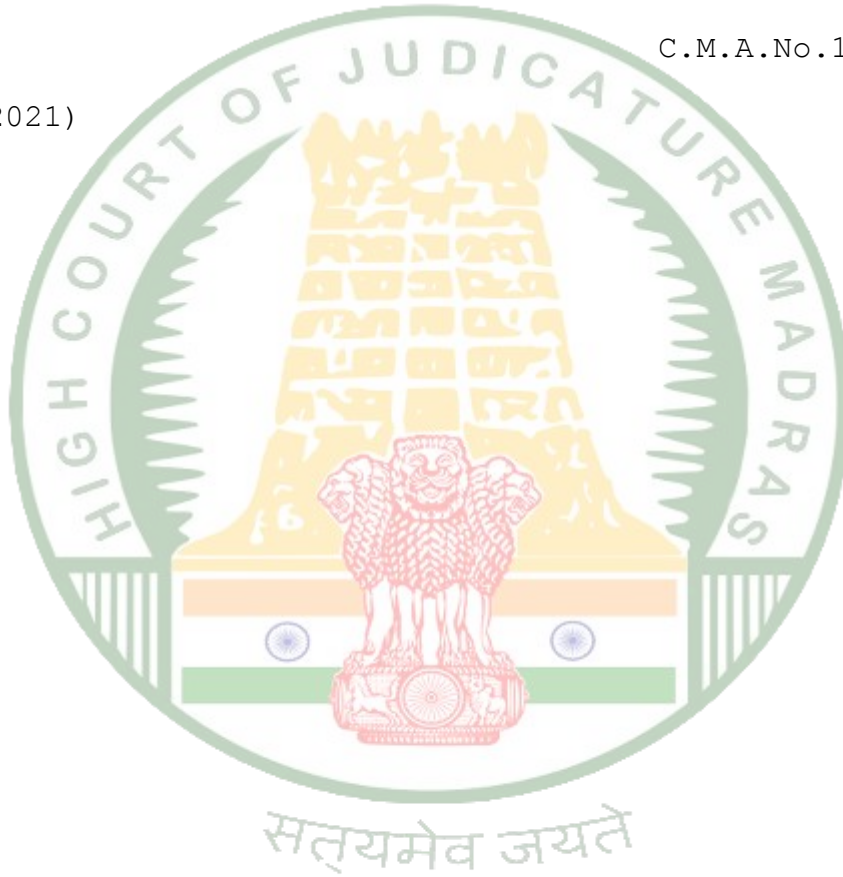
1.The II Additional District Judge
The Motor Accident Claims Tribunal
Tiruvallur at Poonamallee.

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

+lcc to MR.K.Varadha Kamaraj, Advocate SR.24566

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