

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2020

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.3120 of 2019

Arumugam

..Appellant/Petitioner

vs.

1.Sathish

2.The United India Insurance Company Limited,
Divisional Office, Hub, Ranga Building,
Perumanur Main Road, Perumanur,
Salem - 636 007

..Respondents/Respondents

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.1207 of 2016, dated 19.02.2019 on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge No-I, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : R1 - No appearance
R2 - Mr.C.Paranthaman

J U D G M E N T

The present Civil Miscellaneous Appeal on hand is preferred against the judgment and decree dated 19.02.2019 made in M.C.O.P.No.1207 of 2016 on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge No-I, Salem.

2. The accident occurred on 13.03.2016 at about 09.00 p.m, Salem to Tiruchengode Main Road, Near Palikadu Bus Stop. Namakkal District, Mallasamuthiram Police Station registered a case in Crime No.45/2016 under Sections 279, 338 IPC. The appellant/claimant was riding the Bicycle and due to the accident, he sustained grievous injuries and taken treatment at Thirukumaran Hospital, Tiruchengode.

3. The Claim Petition was filed by the appellant and the Tribunal adjudicated the issues. As far as the negligence is concerned, the Tribunal arrived a conclusion that the 1st

respondent, who was driving the two wheeler, had driven his vehicle in a rash and negligent manner, hit against the Bicycle and caused the accident. Thus, the 1st respondent's two wheeler is responsible for the accident and consequently, the 2nd respondent/Insurance company is liable to pay compensation to the appellant/claimant. Regarding the quantum of compensation is concerned, the Medical Board assessed the disability of the appellant/claimant as 25%. The Tribunal also has taken the Disability Certificate as it is without reducing the Disability percentage. This apart, the appellant/claimant was aged about 66 years at the time of accident. Therefore, the loss of income as granted deserves no enhancement. However, it is contended that the compensation granted without various other heads are on the lesser side.

4. The learned counsel appearing on behalf of the 2nd respondent/Insurance company disputed the contentions by stating that the overall compensation granted by the Tribunal is reasonable and therefore, the appeal is to be dismissed.

5. This Court is of the considered opinion that the injuries sustained by the appellant/claimant are grievous. The Tribunal has granted a sum of Rs.3,000/- for one percentage of disability. The accident occurred during the year 2016. Therefore, a sum of Rs.3,000/- is inadequate and not in commensuration with the cost index prevailing in the year, when the accident occurred. Therefore, this Court is inclined to enhance the disability compensation. A sum of Rs.5,000/- for one percentage of disability would be appropriate and accordingly, the appellant/claimant is entitled for the disability compensation for 25%, which is to be calculated as $\text{Rs.5,000/-} \times 25\% = 1,25,000/-$ (Rupees One Lakh Twenty Five Thousand only)

6. Regarding the other heads, no enhancement is required. Thus, the total compensation of Rs.3,10,697/- (Rupees Three Lakh Ten Thousand Six Hundred and Ninety Seven only) awarded by the Tribunal stands enhanced to Rs.3,60,697/- (Rupees Three Lakh Sixty Thousand Six Hundred and Ninety Seven only).

7. The appellant/claimant is entitled for the enhanced compensation of Rs.3,60,697/- (Rupees Three Lakh Sixty Thousand Six Hundred and Ninety Seven only) along with the interest at the rate of 7.5% per annum. The 2nd respondent/Insurance company is directed to deposit the entire award amount along with the accrued interest within a period of twelve (12) weeks from the date of receipt of a copy of this judgment and on such deposit, the appellant/claimant is permitted to withdraw the entire amount along with accrued interest by filing an appropriate application before the Tribunal. The appellant/claimant is directed to pay the additional Court fee, if any, with reference

to the enhanced compensation within a period of two(2) weeks from the date of receipt of a copy of this judgment and the payments are to be made through RTGS.

8. Accordingly, the judgment and the decree dated 19.02.2019 passed in M.C.O.P.No.1207 of 2016 stands modified and consequently, the Civil Miscellaneous Appeal in C.M.A.No.3120 of 2019 stands allowed in part. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Motor Accident Claims Tribunal
Special Subordinate Judge No-I, Salem.

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

+1 CC to Mr.C.Paranthaman, Advocate sr 32314.

CMA No.3120 of 2019

SP(26/04/2021)