

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1367 of 2017

Kannan .. Appellant /Petitioner

Vs.

1. Sarojini

2. The National Insurance Company Limited,
Divisional Office - II,
No.12, Ramakrishna Road,
Salem 7.

3. Elavarasan

4. The Oriental Insurance Company Limited,
Divisional Office, Divya Towers,
II floor, Western Part,
Shevapet, Salem - 2.

Respondents 1 & 3 are set exparte before the Tribunal.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.06.2015 made in M.C.O.P.No.1438 of 2009, on the file of the Motor Accidents Claims Tribunal, Special District Judge, Salem.

For Appellant : Mr.K.Kuppusamy
For R2 : Mr.D.Baskaran

J U D G M E N T

Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has filed the present Civil Miscellaneous Appeal.

2.According to the appellant/claimant, on 06.07.2009 at about 3.30pm, when he was travelling as a passenger in the car bearing Registration No.TN-45-H-2500 belonging to the third respondent and insured with the fourth respondent insurance company, near Chettypalayam over bridge, the lorry bearing Registration No.AP-16-TX-4905 belonging to the first respondent

and insured with the second respondent insurance company, came in a rash and negligent manner and dashed against the car. As a result of the same, the driver of the car died on the spot and the appellant/claimant sustained grievous injuries. He filed a claim petition, claiming a compensation of Rs.5,00,000/-. The Tribunal, after considering the oral and documentary evidence, awarded a compensation of Rs.2,99,880/- with interest at 7.5% per annum from the date of petition. Feeling aggrieved over the quantum of compensation so awarded, the appellant is before this Court with the present appeal seeking enhancement of the same.

3.The learned counsel for the appellant/claimant has submitted that the Tribunal has awarded a lesser sum of Rs.1,40,000/- for 70% permanent disability and loss of earning capacity and the same needs to be enhanced. The learned counsel further submitted that the amounts awarded under other heads are meagre and the same have to be enhanced substantially.

4.Per contra, the learned counsel for the second respondent/ insurance company has submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The appellant/ claimant himself was examined as P.W.2. He stated in his evidence that he was aged about 26 years and was earning Rs.5,000/- per month as an Electrician; due to the impact of the accident, he sustained fracture in the bones of the neck and other grievous injuries all over the body. The doctor, who treated the claimant, was examined as P.W.3 and according to him, the appellant/claimant sustained 70% permanent disability. Ex.P20 is the disability certificate and Ex.P13 is the X-Ray. After considering the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.1,40,000/- by fixing Rs.2,000/- per percentage for 70% permanent disability, under the head "permanent disability and loss of earning capacity", which in the opinion of this Court, seems to be just and reasonable and hence, warrants no interference. That apart, the Tribunal has awarded Rs.93,680/- towards medical bills and Rs.1,200/- towards X-ray bill, which are the actual expenses incurred for the treatment taken by the appellant/claimant due to the accident and hence, the same does not require any interference by this Court.

7.The Tribunal has not awarded any amount towards loss of amenities, future medical expenses and attender charges. Considering the nature of the injuries sustained and the period

of treatment undergone by the appellant/claimant, this Court is inclined to grant a sum of Rs.10,000/- towards loss of amenities, Rs.25,000/- towards future medical expenses and Rs.5000/- towards attender charges, besides enhancing the compensation under the head "loss of income during treatment period" from Rs.15,000/- to Rs.30,000/-, "pain and suffering" from Rs.25,000/- to Rs.40,000/- and "transportation expenses" from Rs.5,000/- to Rs.10,000/-. There is no modification with regard to the award of Rs.20,000/- towards extra nourishment. The details of the modified compensation are as follows:-

Head	Compensation awarded by the Tribunal (Rs.)	Compensation enhanced by this Court (Rs.)
permanent disability and loss of earning capacity	Rs.1,40,000/-	Rs.1,40,000/-
Loss of income during treatment period	Rs.15,000/-	Rs.30,000/-
Medical Bills	Rs.93,680/-	Rs.93,680/-
X-Ray bill	Rs.1,200/-	Rs.1,200/-
Pain and suffering	Rs.25,000/-	Rs.40,000/-
Transportation expenses	Rs.5,000/-	Rs.10,000/-
Loss of amenities	---	Rs.10,000/-
Future medical expenses	---	Rs.25,000/-
Attender charges	---	Rs.5,000/-
Extra Nourishment	Rs.20,000/-	Rs.20,000/-
Total	Rs.2,99,880/-	Rs.3,74,880/-

8. Accordingly, this Civil Miscellaneous Appeal is allowed in part. The award passed by the Tribunal is enhanced from Rs.2,99,880/- to Rs.3,74,880/-. The Second respondent/Insurance Company is directed to deposit the modified compensation amount with interest at 7.5% pa from the date of petition, after deducting the amount, if any, already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the same on making proper application before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

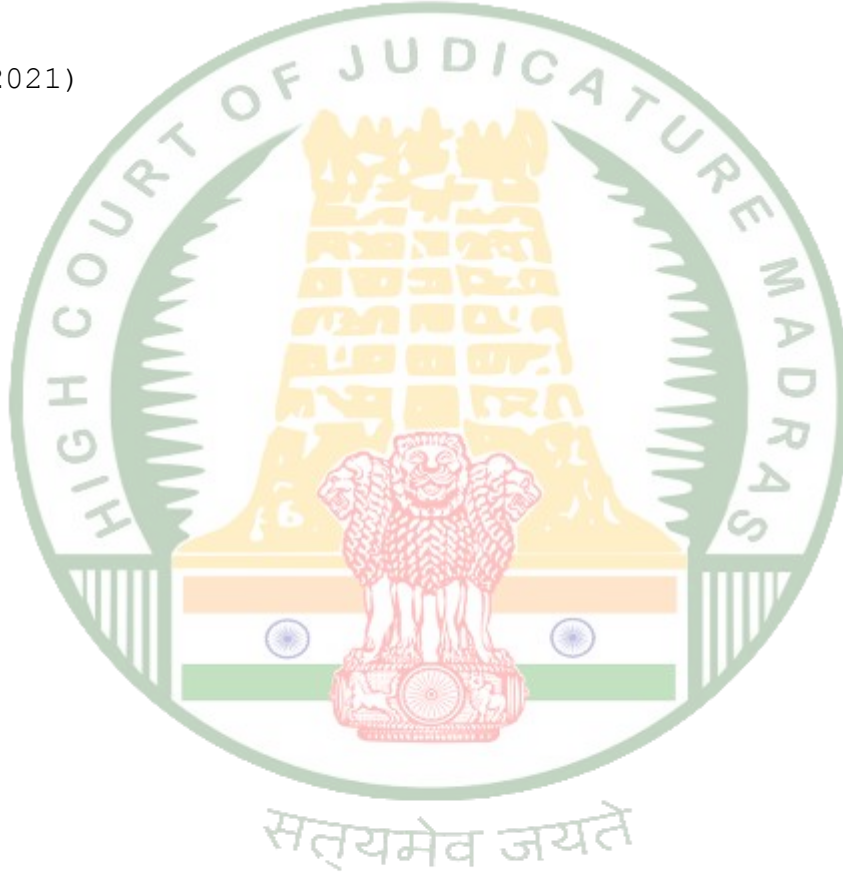
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To

1. The learned Special District Judge,
The Motor Accidents Claims Tribunal,
Salem.
2. The Section Officer,
VR Section, High Court,
Madras.

C.M.A.No.1367 of 2017

RLD(CO)
GN(28/04/2021)



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