

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.3045 of 2017

C.Paramanathan

.. Appellant/Petitioner

Vs.

1.S.Kannan

2.M/s.The Oriental Insurance Company Limited,
KVK Complex, 90-A, Thuraiyur Road,
Namakkal Town & District.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, for enhancement of the compensation amount awarded in the judgment and decree dated 19.06.2017 made in M.C.O.P.No.954 of 2015 on the file of MACT/Additional District Court at Namakkal.

For Appellant : Mr.MA.P.Thangavel

For Respondents: Mr.S.Arunkumar[For R2]
R1 - Ex-parte

JUDGMENT

The civil miscellaneous appeal is filed against the judgment and decree dated 19.06.2017 passed in M.C.O.P.No.954 of 2013.

2. The appeal on hand has been filed by the claimant for enhancement of compensation.

3. The accident occurred on 29.05.2015 at about 12.50 P.M. Near Old Post office at Nallipalayam in Tiruchengode to Namakkal Main Road. Nallipalayam Police has registered a case in Crime No.133/15, U/s.279, 337 IPC.

4. On account of the accident, the claimant suffered Multiple Grievous injuries and compound fractures in her head, chest, both hands, both legs and some other injuries all over the body.

5. The claim petition was filed, seeking compensation for a

sum of Rs.10,00,000/-. The Tribunal adjudicated the issues and arrived a conclusion that the factum regarding the accident was established by the claimant and the 2nd respondent Insurance company is liable to pay compensation. When the liability is fixed, the Tribunal proceeded for assessing the quantum of compensation. The Doctor assessed the disability as 40% and the Tribunal has taken the disability of 35% and accordingly, granted Rs.70,000/- towards the disability.

6. The learned counsel appearing on behalf of the appellant mainly contended that the accident occurred in the year 2015 and grant a sum of Rs.2,000/- per percentage is lesser than that of the compensation granted by the Courts in such circumstances. So far, the compensation is to be enhanced.

7. The learned counsel appearing on behalf of the respondent disputed the contentions by stating that the nature of the injury was considered by the Tribunal and accordingly, the compensation was awarded and therefore, no further interference is required.

8. This Court is of the considered opinion that the partial permanent disability was assessed by the Doctor as 40%. The Tribunal has taken 35%. However, the Tribunal ought to have granted a sum of Rs.4,000/- per percentage in view of the fact that the accident occurred in the year 2015.

9. The compensation of a sum of Rs.2,000/- per percentage was granted in the years 2006, 2007 & 2008, and in the year 2015, on account of the escalation in cost of living, the compensation is to be enhanced. Accordingly, the total compensation awarded by the Tribunal is enhanced as detailed hereunder:

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S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For 35% disability (35*2000) =70,000/-	70,000/-	For 35% disability (35*4000) =1,40,000/-	Enhanced
2.	Medical Expenses	74,610/-	74,610/-	Confirmed
3.	Nourishment	5,000/-	10,000/-	Enhanced
4.	Transport Expenses	5,000/-	5,000/-	Confirmed
5.	Loss of Income (6500*3) =19,500/-	19,500/-	Loss of Income (6500*4) =26,000/-	Enhanced
	Total	1,74,110/- rounded off to 1,74,100/-	2,55,610/-	Enhanced by Rs.81,510/-

8. The total amount of compensation payable to the appellant/claimant is Rs.2,55,610/- (Rupees Two Lakhs Fifty Five Thousand Six Hundred and Ten only)

9. The 2nd respondent/Insurance company is directed to deposit the entire enhanced awarded amount along with the interest at the rate of 7.5% per annum within a period of six (6) weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit, the appellant/claimant is permitted to withdraw the compensation amount by filing an appropriate application before the Tribunal and the payments are to be made through RTGS. The claimant is liable to pay the court fee for the enhanced compensation.

10. Accordingly, the judgment and decree dated 19.06.2017 passed in M.C.O.P.No.954 of 2015 is quashed and consequently, C.M.A.No.3045 of 2017 stands allowed. No costs.

Sd/-
Asst.Registrar (CS I)

/true copy/

Sub Asst. Registrar

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To

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

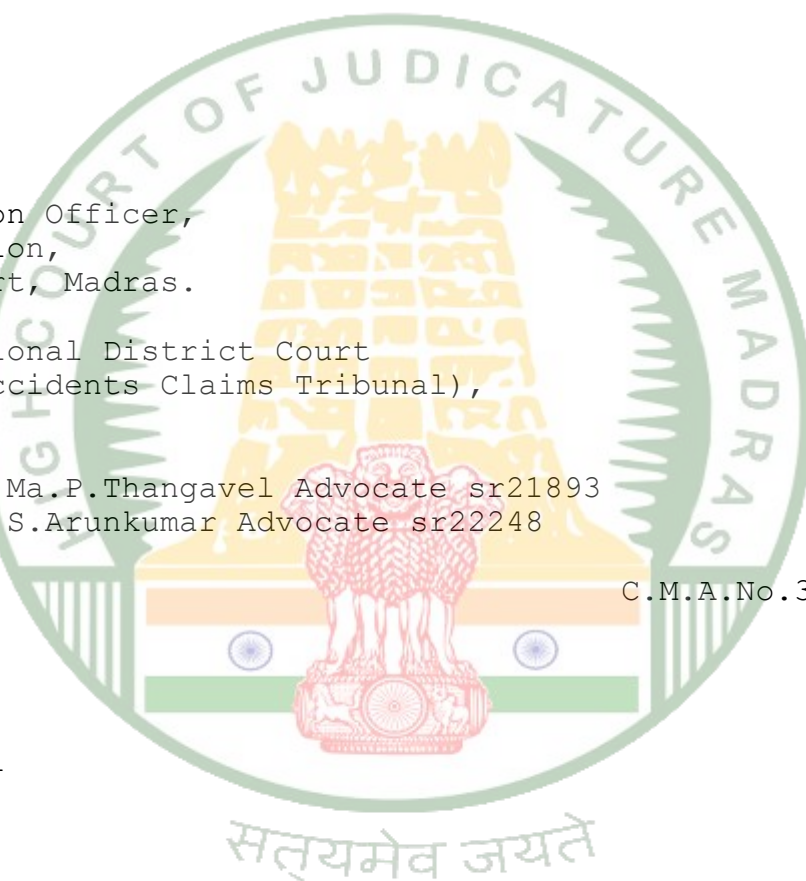
2.The Additional District Court
(Motor Accidents Claims Tribunal),
Namakkal.

+1 cc to Mr.Ma.P.Thangavel Advocate sr21893

+1 cc to Mr.S.Arunkumar Advocate sr22248

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