

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.NO.708 OF 2017

P.Paneerselvam

..Appellant/Petitioner

Vs.

1.L.Vellayan

2.United India Insurance Company Limited,
No.78, Kamaraj Salai,
Kaveri Nagar, Kulithalai.

..Respondents/Respondents

Prayer :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 23.06.2011 made in M.C.O.P.No.55 of 2008, on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Namakkal.

For Petitioner : Mr.Ma.P.Thangavel

For Respondents : Non-appearance for R1 Exparte
M/s.I.Malar for R2.

J U D G M E N T

The appeal is filed by the claimant seeking enhancement of compensation.

2. The accident occurred in the year 2007 and the injuries sustained by the appellant are in the nature of crush injury and the injury caused certain partial permanent disability. The learned counsel for the appellant made a submission that the appellant is unable to move freely. This being the nature of the injury, the Tribunal has granted less compensation without appreciating the nature of the injury as well as the treatment taken by the appellant. It is contended that the monthly income of Rs.4,500/- fixed by the Tribunal is improper. The appellant is working as a Sugarcane Cutting Broker work and therefore, the monthly income, even in the year 2007, was more than Rs.4,500/-.

3. The learned counsel appearing on behalf of the second respondent/Insurance Company disputed the contention by stating that it is only a partial permanent disability and therefore, the Tribunal has assessed the compensation with reference to the nature of injury. There is no infirmity as such and the appellant claims that he was a Sugarcane cutting broker work and therefore, the Tribunal has fixed a sum of Rs.4,500/- monthly income, which cannot be said to be improper.

4. This Court is of the considered opinion that the appellant could not demonstrate that on account of crush injury, his normal life is being affected. He is unable to walk freely and perform his normal affairs. Further, the appellant has undergone treatment for about 74 days and therefore, the loss of income calculated is also inadequate. In view of facts and circumstances, the compensation is enhanced as detailed hereunder:

Transportation	: Rs. 5,000/-
Extra Nourishment	: Rs. 10,000/-
Pain and suffering	: Rs. 15,000/-
Medical Expenditure	: Rs. 37,120/-
Disability (30X2000)	: Rs. 60,000/-
Loss of income (4500X9)	: Rs. 40,500/-
Total	: Rs.1,67,620/-

5. The total compensation payable to the appellant/claimant is Rs.1,67,620/-. The second respondent/Insurance Company is directed to deposit the entire compensation along with interest at the rate of 7.5% per annum, if not already deposited, within a period of six weeks from the date of receipt of copy of this Judgment and on such deposit, the appellant/claimant is permitted to withdraw the entire amount by filing appropriate application and the payments are to be made through RTGS. The judgment and decree dated 23.06.2011 made in M.C.O.P.No.55 of 2008 is set aside and the Civil Miscellaneous Appeal stands allowed. No costs.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

ssb

To

1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Namakkal.

Copy To

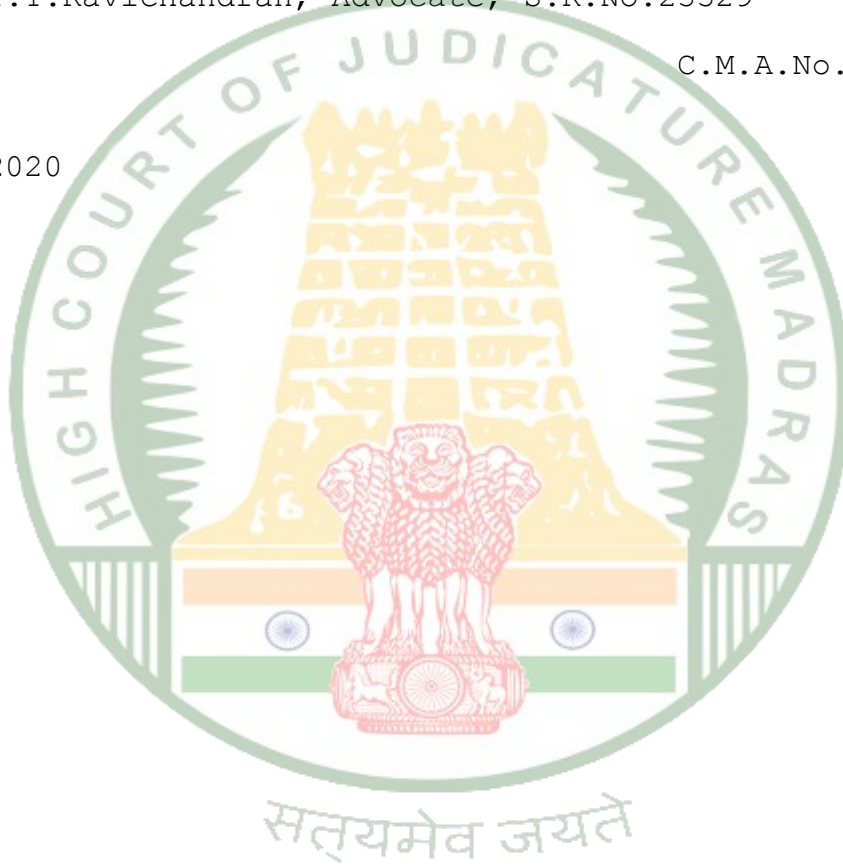
The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.23431

+1cc to Mr.T.Ravichandran, Advocate, S.R.No.23329

C.M.A.No.708 of 2017

CA(CO)
CS/28/10/2020



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