

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.766 of 2017

S.Subramanian

.. Appellant /Petitioner

Vs.

1. R.Ravi

(R1 set exparte before the Tribunal)

2. The Oriental Insurance Co. Ltd.,

Motor III Party Claims Office,

Jawaharlal Nehru Salai, Thiruvallur.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 23.01.2014 made in M.C.O.P.No.865 of 2012, on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Poonamallee.

For Appellant : Mr.J.Mahalingam

For R1 : Exparte

For R2 : Mr.D.Baskaran

J U D G M E N T

Being dissatisfied with the quantum of compensation awarded by the Tribunal, in and by award dated 23.01.2014 made in MCOP.No.865 of 2012, the appellant/claimant has filed the present Civil Miscellaneous Appeal.

2.According to the appellant/claimant, on 15.12.2011 at about 13.00hours, he was standing at G.S.T Road, Karpaga Vinayaga Institute of Sciences and Research Centre Bus Stop. At that time, the lorry bearing Registration No.TN 21 K 5099 belonging to the first respondent and insured with the second respondent insurance company, came in a rash and negligent manner from North to South direction and dashed against the appellant/claimant. As a result of the same, the appellant /

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claimant sustained grievous injuries. Stating that the accident had occurred due to the rash and negligent driving of the driver of the lorry, he filed a claim petition, claiming a compensation of Rs.15,00,000/-. The Tribunal, after considering the oral and documentary evidence available on record, awarded a compensation of Rs.4,48,151/- with interest at 7.5% per annum from the date of petition. 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.1,44,000/- for 72% permanent disability and Rs.60,000/- towards loss of income and the same need to be enhanced. The learned counsel further submitted that the amounts awarded under other heads are meagre and the same have also 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 examined as P.W.1. According to him, he was aged about 62 years and was earning Rs.1,00,000/- by doing agriculture works, besides Rs.2,00,000/- from real estate business. However, no authenticated document was filed to substantiate the same. He further stated in his evidence that in the accident, he sustained head injury and fracture on his right femur and left hip Acetabulum bones and other grievous injuries all over the body. The doctor, who treated the claimant, was examined as P.W.2 and as per his statement, the appellant/claimant sustained 72% permanent disability and Ex.P12 is the disability certificate issued by him. Ex.P11 is X-Ray. After considering the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.1,44,000/- by fixing Rs.2,000/- per percentage for 72% permanent disability, under the head "Injury", which in the opinion of this Court, is slightly on the lower side and hence, the same is hereby enhanced to Rs.2,16,000/- by taking Rs.3,000/- per percentage of disability.

7.The Tribunal has awarded Rs.1,61,151/- towards medical expenses as per Exs.P7 and P8 medical bills, which is the actual

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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.

8.However, the Tribunal has not awarded any amount towards future medical expenses. Considering the nature of the injuries sustained and the quantum of disability sustained by the appellant/claimant, this Court is inclined to grant a sum of Rs.20,000/- towards future medical expenses. Further, taking note of the facts and circumstances of the case, this Court feels it just and appropriate to enhance the compensation awarded by the Tribunal under the heads viz., Transportation and extra nourishment to Rs.10,000/ and Rs.8,000/- respectively. However, there is no modification with regard to the award of Rs.33,000/- towards Attender Expenses, Rs.60,000/- towards loss of income, Rs.30,000/- towards pain and suffering and Rs.10,000/- towards loss of amenities, which in the opinion of this Court, are just and reasonable. The details of the modified compensation are as follows:-

HEADS	AMOUNT (Rs.)
Injury	2,16,000/-
Transportation	10,000/-
Loss of Income	60,000/-
Attender Expenses	33,000/-
Medical Expenses	1,61,151/-
Pain and Suffering	30,000/-
Extra Nourishment	8,000/-
Loss of amenities	10,000/-
Future Medical Expenses	20,000/-
TOTAL....	5,48,151/-
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Thus, the compensation awarded by the Tribunal stands enhanced to Rs.5,48,151/- with interest at the rate of 7.5% per annum from the date of petition.

9.The second respondent Insurance Company is directed to deposit the modified compensation amount as ordered above, 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. The appellant is not entitled to receive interest for the delay in filing the appeal. On such deposit being made, the appellant / claimant is permitted to withdraw the same on making proper application before the Tribunal. It is made clear that the appellant/claimant has to pay the appropriate Court fee

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in order to receive the awarded amount.

10. Accordingly, this Civil Miscellaneous Appeal is allowed in part. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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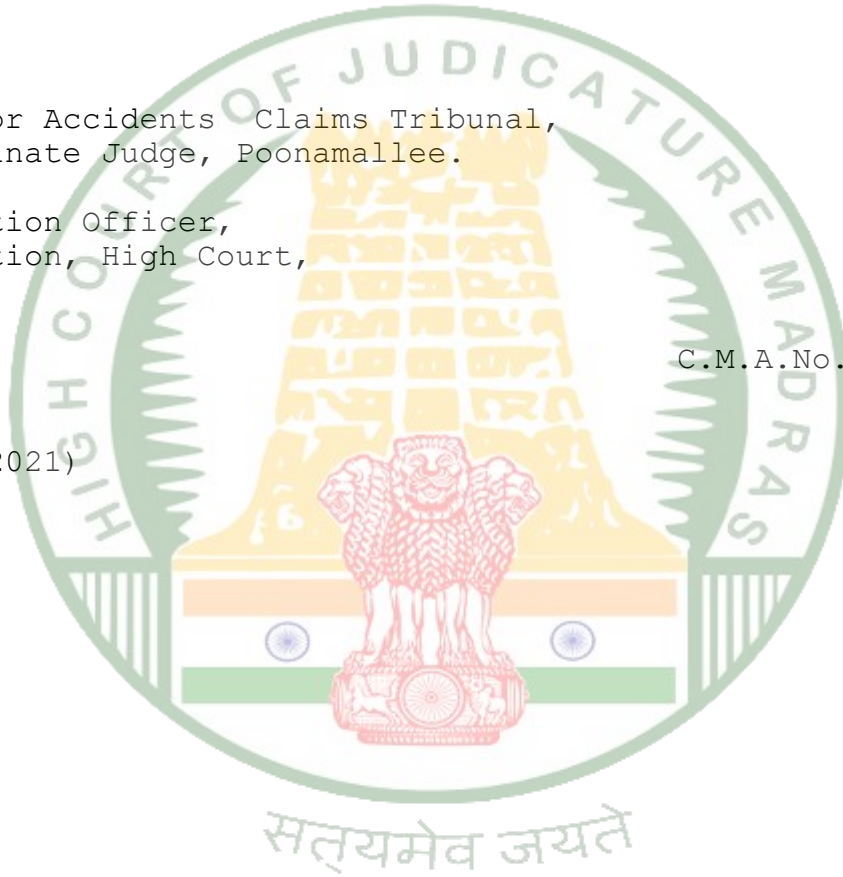
To

1. The Motor Accidents Claims Tribunal,
Subordinate Judge, Poonamallee.

2. The Section Officer,
VR Section, High Court,
Madras.

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