

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.4844 of 2019

S.Ramesh

.. Appellant/Petitioner

Vs.

1.G.Arumugam

2.National Insurance Company Limited,
Motor Third Party Cell,
No.751, Anna Salai, III Floor,
Chennai - 600 002. ... Respondents/Respondents
(R1 remained exparte before Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 07.09.2018 made in M.C.O.P.No.2828 of 2014 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Ms.S.Jayanthi
for Mr.N.M.Muthurajan
For R2 : Mrs.R.Sreevidhya

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 07.09.2018 made in M.C.O.P.No.2828 of 2014 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

2.By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final disposal at the admission stage itself.

3.The appellant is the claimant in M.C.O.P.No.2828 of 2014 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai. He filed the above said claim petition, claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on

15.03.2014.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the car belonging to the first respondent and directed the second respondent-Insurance Company, being the insurer of the car to pay a sum of Rs.1,34,338/- as compensation to the appellant.

5.Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

6.The learned counsel appearing for the appellant contended that the appellant has taken treatment as in-patient on three different spells from 15.03.2014 to 17.03.2014, 21.03.2014 to 24.03.2014 and 04.02.2015 to 06.02.2015 and the compensation awarded by the Tribunal towards pain and sufferings and medical expenses are meagre. The appellant was working as Assistant Engineer - Process with M/s.AVTEC Limited., and was earning a sum of Rs.11,658/- per month and due to the accident, he has taken treatment as in-patient and out-patient for more than six months and the Tribunal has awarded only a meagre sum of Rs.11,658/- towards loss of income for one month. The appellant has suffered corneal scleral tear with iris prolapse with subluxated cataractous lens with lid laceration. The Tribunal has not awarded any amount towards loss of earning power. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

7.Per contra, Mrs.R.Sreevidhya, learned counsel appearing for the second respondent-Insurance Company contended that the appellant suffered only simple injuries and hence, the compensation awarded by the Tribunal towards pain and sufferings and medical expenses is not meagre. The Tribunal has awarded a sum of Rs.11,658/- towards loss of income to the appellant, which is not meagre. The total compensation of Rs.1,34,338/- awarded by the Tribunal to the simple injuries suffered by the appellant is not meagre and hence, the appellant is not entitled to any enhancement. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent and perused the entire materials on record.

9. From the materials available on record, it is seen that the appellant suffered 'Corneal scleral tear with iris prolapse with subluxated cataractous lens with lid laceration' and underwent surgery on 15.03.2014. For the injuries suffered by the appellant, P.W.2/Doctor has certified that the appellant suffered 20% partial permanent disability. The Tribunal has awarded a sum of Rs.60,000/- towards 20% partial permanent disability at the rate of Rs.3,000/- per percentage of disability. The same is not meagre and hence confirmed. The appellant has taken treatment in the hospital as in-patient on three different spells i.e., from 15.03.2014 to 17.03.2014, 21.03.2014 to 24.03.2014 and 04.02.2015 to 06.02.2015. The Tribunal has awarded meagre sum of Rs.2,000/- towards attendant charges. Considering the nature of injuries and period of treatment taken by the appellant, the amounts awarded by the Tribunal towards attendant charges and extra nourishment are enhanced to Rs.10,000/- each. The Tribunal has awarded meagre sum of Rs.500/- towards damages to clothes and the same is enhanced to Rs.2,000/-. The Tribunal has awarded a sum of Rs.11,658/- towards loss of income, which is just and reasonable and the same is confirmed. The appellant has not proved that he suffered functional disability. In the absence of any material evidence, the appellant is not entitled to any compensation towards loss of earning power. The compensation awarded by the Tribunal under other heads are just and reasonable and hence, they are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	60,000/-	60,000/-	Confirmed
2.	Pain and sufferings	20,000/-	20,000/-	Confirmed
3.	Extra nourishment	5,000/-	10,000/-	Enhanced
4.	Transportation	5,000/-	5,000/-	Confirmed
5.	Medical expenses	20,180/-	20,180/-	Confirmed
6.	Loss of income	11,658/-	11,658/-	Confirmed
7.	Loss of amenities	5,000/-	5,000/-	Confirmed

8.	Attendant charges	2,000/-	10,000/-	Enhanced
9.	Damage to cloth	500/-	2,000/-	Enhanced
10.	Future medical expenses	5,000/-	5,000/-	Confirmed
	Total	Rs.1,34,338/-	Rs.1,48,838/-	enhanced by Rs.14,500/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,34,338/- is hereby enhanced to Rs.1,48,838/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2828 of 2014 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. It is made clear that the appellant is not entitled to any interest for the delay period in filing the appeal on Rs.14,500/-, the amount now enhanced by this Court as per the order of this Court dated 12.12.2019 made in C.M.P.No.26349 of 2019 in C.M.A.SR.No.151502 of 2019. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1.The III Judge,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

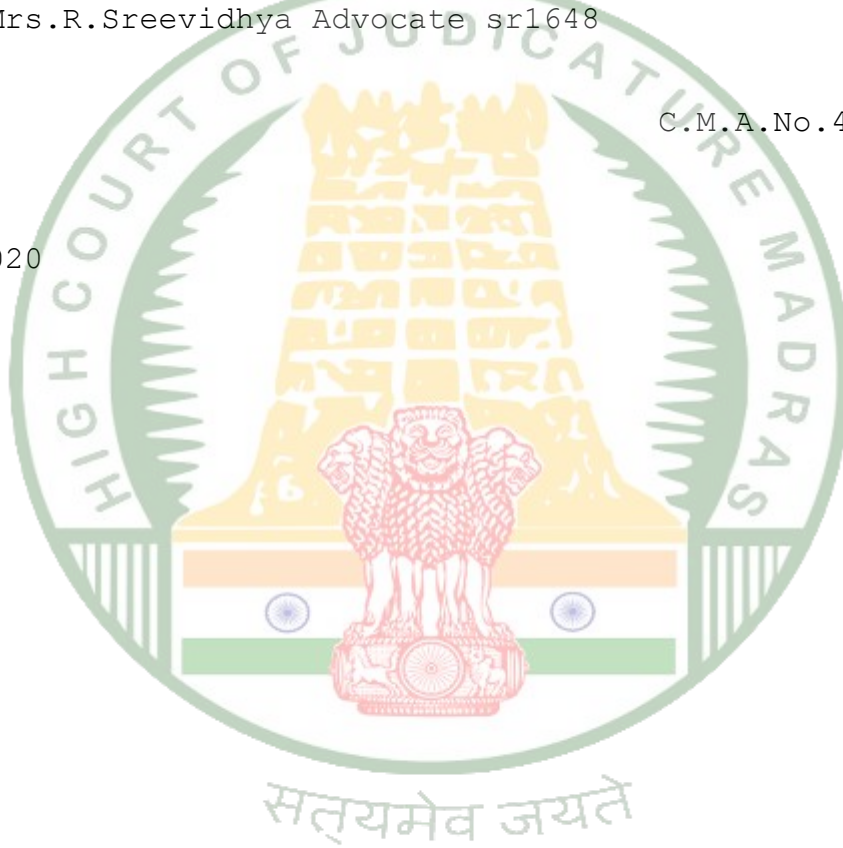
2.The Section Officer,
VR Section,
High Court,
Madras.

+1 cc to Mr.N.M.Muthurajan Advocate srl457

+1 cc to Mrs.R.Sreevidhya Advocate srl648

C.M.A.No.4844 of 2019

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