

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.4807 of 2019

Manoharan

... Appellant /Petitioner

Vs.

1.Palanisamy

2.The National Insurance Company Limited,
2nd Floor, 81-D, North Car Street,
Tiruchengode Town & Taluk,
Namakkal District 637 211.

3.The National Insurance Company Limited,
1272-1273, Palaniappa Complex,
Mettur Road, Erode 638 011.

... Respondents

(1st respondent remained exparte before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.10.2019 made in M.C.O.P.No.148 of 2018 on the file of Motor Accident Claims Tribunal, Special District Judge, Erode.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mr.J.Chandran (for R2 and R3)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant for enhancement of compensation awarded by the Tribunal by award dated 14.10.2019 made in M.C.O.P.No.148 of 2018 on the file of Motor Accident Claims Tribunal, Special District Judge, Erode.

2. By consent of both parties, the appeal is taken up for final disposal at the admission stage itself.

3. The appellant is the claimant in M.C.O.P.No.148 of 2018 on the file of Motor Accident Claims Tribunal, Special District

Judge, Erode. The appellant/claimant filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 19.02.2017.

4. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driving of the bus belonging to the 1st respondent and directed the respondents 2 and 3/Insurance Companies to pay a sum of Rs.3,13,288/- as compensation to the appellant/claimant.

5. Not being satisfied with the amounts 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/claimant contended that the appellant is working as a coolie and was earning a sum of Rs.10,000/- per month. The Tribunal fixed a meagre amount of Rs.8,000/- as monthly income of the appellant. The appellant sustained multiple injuries in the accident and he took treatment as inpatient from 20.12.2017 to 25.02.2017. He underwent surgery and the amounts awarded by the Tribunal under different heads of loss of income, extra nourishment and transportation are meagre. The Tribunal failed to award any amounts towards loss of amenities and future medical expenses and prayed for enhancement of compensation.

7. Mr.J.Chandran, learned counsel takes notice for the respondents 2 and 3 and contended that amounts awarded by the Tribunal under various heads are excessive. The Tribunal accepting the disability certificate issued by P.W.2/Doctor has granted compensation. The amounts awarded by the Tribunal under various heads are excessive and hence the appellant is not entitled for any enhancement and prayed for dismissal of the appeal.

8. From the materials available on record, it is seen that the petitioner sustained fracture in the neck and shaft fracture of left femur and he was admitted as an inpatient from 20.12.2017 to 25.02.2017 for six days and surgery was done. The appellant has not examined any Doctor and has not produced any document to prove that he suffered disability due to the injuries. The appellant has examined PW.2/Doctor who spoke only about Exs.P6 to P9, Accident Register, Wound Certificate and Discharge summary. The Tribunal considering the evidence of PW.2 and nature of injuries, awarded a sum of Rs.1,00,000/- for two injuries. The contention of the learned counsel for the

appellant that the appellant was working as a coolie and earning a sum of Rs.10,000/- per month is contrary to the averments in the claim petition. In the claim petition, the appellant has mentioned that he was earning a sum of Rs.8,000/- per month as a coolie. The Tribunal accepted the said contention and fixed the monthly income of the appellant as Rs.8,000/-. In view of the averments in the claim petition, the amount fixed by the Tribunal as monthly income is proper. The appellant has contended that he took treatment for six months as inpatient but he has not filed disability certificate. The Tribunal has granted a sum of Rs.48,000/- towards loss of income, Rs.25,000/- towards attendant charges and Rs.50,000/- towards pain and sufferings. Considering the nature of injuries and in view of the excess amount granted by the Tribunal, the appellant is not entitled for any enhancement towards injuries, loss of income, attendant charges and pain and sufferings,. The appellant has not let in any evidence to show that he requires future medical expenses and hence, he is not entitled for compensation towards future medical expenses.

9. For the above reasons, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.3,13,288/- awarded by the Tribunal as compensation to the appellant/claimant, along with interest and costs is confirmed. The respondents 2 and 3/Insurance Companies are directed to deposit the award amount with interest and costs, less the amount already deposited, if any, within a period six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.148 of 2018. On such deposit, the appellant/ claimant is permitted to withdraw the award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

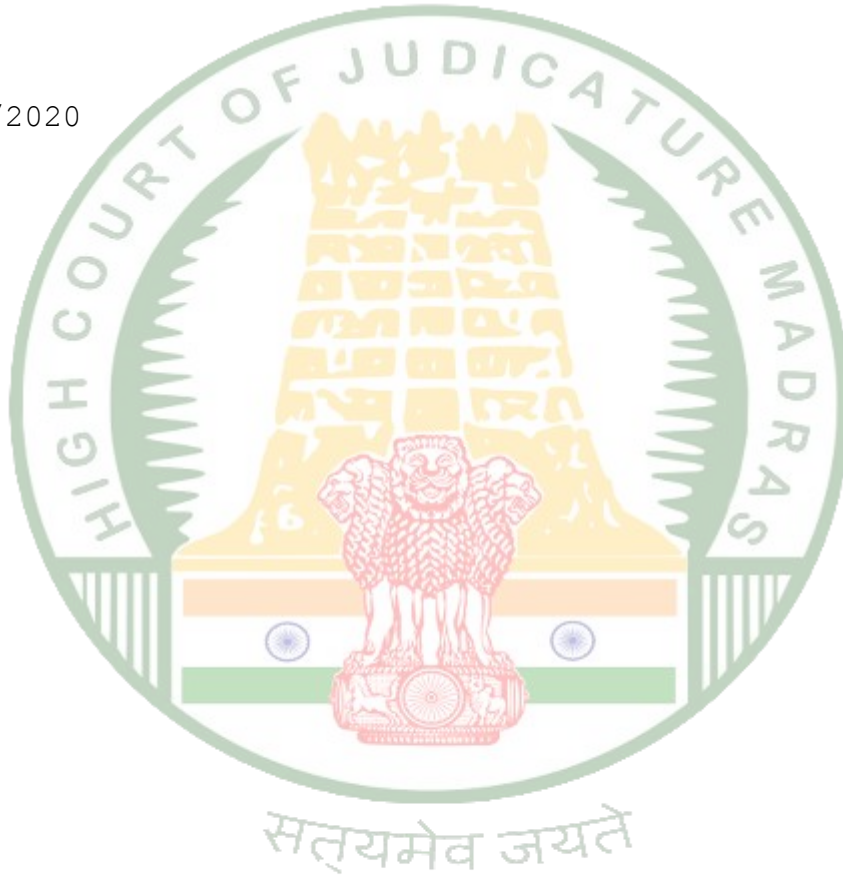
1.The Special District Judge,
Motor Accident Claims Tribunal,
Erode.

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

+2cc to Mr.C.Paraneedharan, Advocate Sr.351
+1cc to Mr.J.Chandran, Advocate Sr.534

C.M.A.No.4807 of 2019

rv[col]
srg 22/09/2020



WEB COPY