

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.2085 of 2021

Bharath

... Appellant

Vs.

1.Kumar

2.New India Ass. Co. Ltd.,
Motor III Party Claims Office,
No.232, N.S.C Bose Road,
Bombay Mutual Building 6th Floor,
Chennai -1.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to set aside the award passed in MCOP No.3968 of 2016 dated 18.02.2020 by the Motor Accidents Claims Tribunal, Special Judge-II, Court of Small Causes, Chennai and enhance the award amount.

For Appellant : Mrs.Maithri Mahalingam
For Respondents : Mr.J.Chandran (for R2)
R1 – Exparte

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 18.02.2020, passed by the Motor Accidents Claims Tribunal, II Special Judge, Court of Small Causes at Chennai in M.C.O.P.No.3968 of 2016.

2.By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.10,46,400/- as compensation together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit, to the appellant/claimant for the injury sustained by him in a road accident.

3.The brief facts are that on 04.06.2016 at 12.45 p.m, the claimant was painting the wall in 100 Feet Road Bridge at Thirumangalam. At that time, a car bearing Reg.No.TN-05-AR-5151 driven by its driver in a rash and negligent manner, dashed the claimant and others. In the accident, the claimant sustained grievous injuries. Though he claimed Rs.40,00,000/- as compensation, the Tribunal has awarded Rs.10,46,400/- together with interest at 7.5% per annum, under the following heads:-

<i>Heads</i>	<i>Rs.</i>
Loss of dependency 14700x12x30/100x17	8,99,640/-

<i>Heads</i>	<i>Rs.</i>
Pain and Sufferings	35,000/-
Transportation	15,000/-
Extra Nourishment	30,000/-
Damage of Cloth and Articles	1,000/-
Attendant Charges	15,000/-
Loss of Estate	35,000/-
Loss of Future Prospectus	15,000/-
Medical Expenses	750/-
Total	10,46,390/-
Rounded off	10,46,400/-

4.The learned counsel for the appellant/claimant would contend that since the amount awarded by the Tribunal is meager in all the heads, the claimant is entitled for higher compensation. He would further submit that immediately after the accident the claimant was treated as inpatient at KMC Hospital, Chennai from 04.06.2016 to 13.08.2016 for 70 days and the same day, buddy strapping was done to the 5th Proximal Phalanx Fracture. Thereafter, on 14.06.2016 to stabilize the fractured bone, steel rods were fixed in his right thigh with external fixation. Thereafter, on 22.07.2016, the claimant underwent surgery for right ankle fracture and for extensive loss of skin, the skin was taken from the right thigh and skin

grafting was done. Thereafter, skin grafting was done in the right ankle. On 03.08.2016 and 08.08.2016, operations had been done for fractures of left leg and right thigh. Again, the claimant was admitted as in-patient from 01.09.2016 to 24.09.2016 and his right ankle puss discharge was cleaned and dressed every day and on 12.09.2016 also, a surgery was conducted. After discharged, the claimant was completed bed-ridden for one year. Hence, the claimant seeks enhancement of compensation.

5.Per contra, the learned counsel appearing for the 2nd respondent Insurance Company submitted that the impugned Judgment and Decree awarding the aforesaid compensation is well reasoned and it requires no interference and therefore, this Civil Miscellaneous Appeal is liable to be dismissed.

6.This Court carefully considered the submissions of the learned counsel for the appellant/claimant and the learned counsel appearing for the second respondent/Insurance Company and perused the materials available on record.

7.According to the learned counsel for the appellant/claimant, so many surgeries had been conducted on the claimant. The said contention has been proved through the evidence of P.W.2, Dr.K.J.Mathiyalagan and Exs.P.2 to 8,

Exs.P.12 and 13. Therefore, considering the nature of injuries and the period of treatment undergone by the claimant, this Court is of the view that the amounts awarded under the head of pain and sufferings, extra nourishment, attendant charges, loss of estate and loss of future prospectus have to be enhanced. The amounts awarded under the head of loss of dependency, transportation, damage of cloth and articles and medical expenses are reasonable and they are unaltered. Hence, the compensation awarded by the Tribunal to the appellant/claimant is re-quantified as follows:-

<i>Heads</i>	<i>Rs.</i>
Loss of dependency 14700x12x30/100x17	8,99,640/-
Pain and Sufferings	1,00,000/-
Transportation	15,000/-
Extra Nourishment	50,000/-
Damage of Cloth and Articles	1,000/-
Attendant Charges	50,000/-
Loss of Estate	50,000/-
Loss of Future Prospectus	50,000/-
Medical Expenses	750/-
Total	12,16,390/-
Rounded off	12,16,400/-

8.In such view of the matter, this Civil Miscellaneous Appeal is partly allowed. The second respondent/Insurance Company is directed to deposit the modified award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the amount after filing a memo, along with a copy of this order, less the amount if already withdrawn. No costs.

[M.K.K.S.,J.]

[V.S.G.,J.]

31.08.2021

Intex : Yes/No
Internet : Yes/No
skn
To

1.The Motor Accidents Claims Tribunal,
Special Judge-II, Court of Small Causes, Chennai.

2.V.R.Section,
Madras High Court,
Chennai.

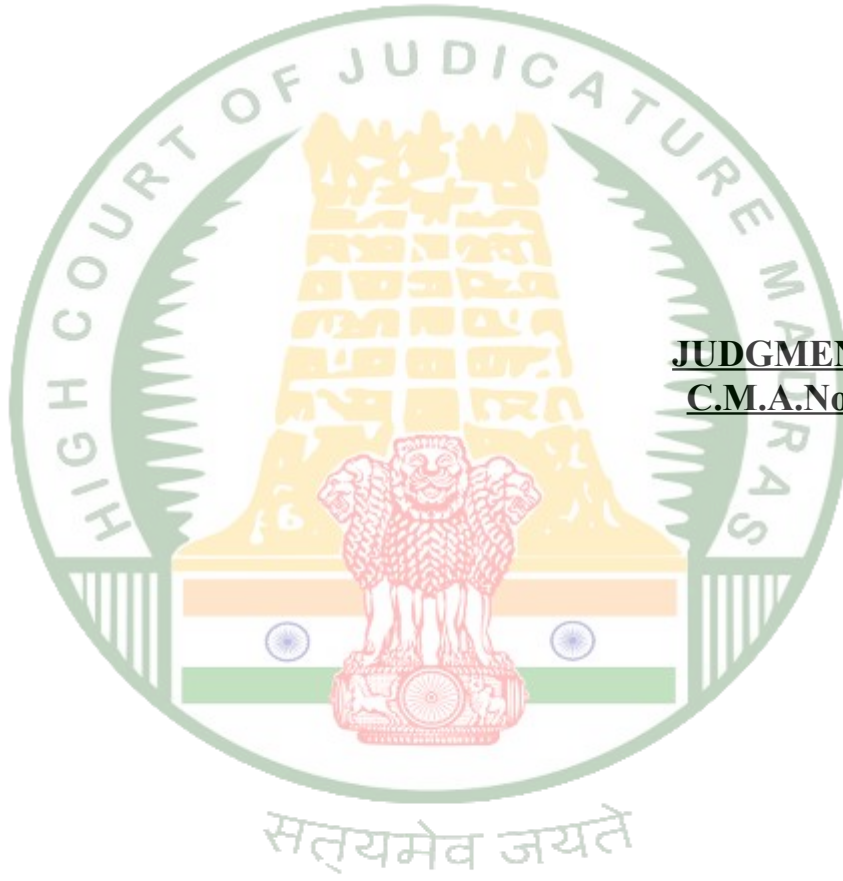
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K.KALYANASUNDARAM, J.

C.M.A.No.2085 of 2021

and
V.SIVAGNANAM, J.

skn



JUDGMENT MADE IN
C.M.A.No.2085 of 2021

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