

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2015

C O R A M

THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI

C.M.A.No.961 of 2011

Pavayee

...Appellant

Vs.

1. S.Ponnusamy

2.. The New India Assurance Company
rep. by its Divisional Office,
Premier Complex,
Saradha College Road,
Salem.

(R1 was set ex parte)

... Respondents

PRAYER:

Civil Miscellaneous Appeal filed against the judgment and decree, dated 14.12.2009, passed in M.C.O.P.No.522 of 2006, on the file of the Motor Accident Claims Tribunal/II Additional Sub Court, Salem.

For Appellant : Mr.R.Marudhachalamurthy
For 2nd Respondent : Mr.S.Manohar

JUDGEMENT

The claimant is the appellant herein. This Appeal is filed for enhancement of compensation of Rs.75,000/- awarded against the total claim of Rs.3,00,000/-

2. The Tribunal, on the basis of the findings that the claimant was, on the date of the accident, aged 50 years, and was working as Coolie, for monthly salary of Rs,4,000/- and in the accident, he sustained fracture on the left pelvic, rupture in the intestine, besides injuries all over the body and was treated in Alagriri Ortho Hospital, Pallipalayam, for 12 days from 29.03.2006 to 09.04.2006, and has been under continuous treatment, and she has already spent huge amount by way of medical expenses and the fractured bones are not united properly but malunited and the movements of left hip and right knee is restricted, resulting in difficulty in standing and walking in the slope and in sitting crossed legged, accepted the permanent

disability at 32% as assessed by P.W.2/Doctor, and awarded compensation under the following heads:-

i)	Disability	:	Rs.35,000/-
ii)	Pain and Suffering	:	Rs.5,000/-
ii)	Medical Expenses	:	Rs.28,000/-
iii)	Loss of Earnings	:	Rs.7,000/-
Total			: Rs.75,000/-

3. The petitioner has come forward for enhancement of compensation under different heads as above referred to, and for awarding reasonable compensation for loss of earning and for loss of future earning. While arguing so, the attention of this Court is drawn to the fact that the Tribunal, having awarded Rs.7,000/- towards the loss of earning, failed to fix notional income for the claimant.

4. Heard both sides.

5. This Court, having regard to the age, nature of injuries, duration of the treatment and percentage of disability sustained by the claimant, is inclined to enhance the compensation as follows:-

i)	Disability	:	Rs.64,000/--
ii)	Pain and suffering	:	Rs.50,000/-
iii)	Medical Expenses	:	Rs.28,000/-
iv)	Loss of Partial Earning	:	Rs.10,000/-
v)	Transport to Hospital & Extra Nourishment	:	Rs.20,000/-
Total			: Rs.1,72,000/-

The said amount of Rs.1,72,000/- is payable with interest at 7.5% p.a. from the date of Petition till date of payment.

6. In the result, the compensation awarded by the Tribunal is enhanced from Rs.75,000/- to Rs.1,72,000/- with interest at 7.5 % p.a. from the date of Petition till date of deposit. Time for depositing balance award amount is eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire amount so deposited by filing Cheque Petition before the Tribunal.

7. The Civil Miscellaneous Appeal is accordingly allowed.
No costs.

-Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

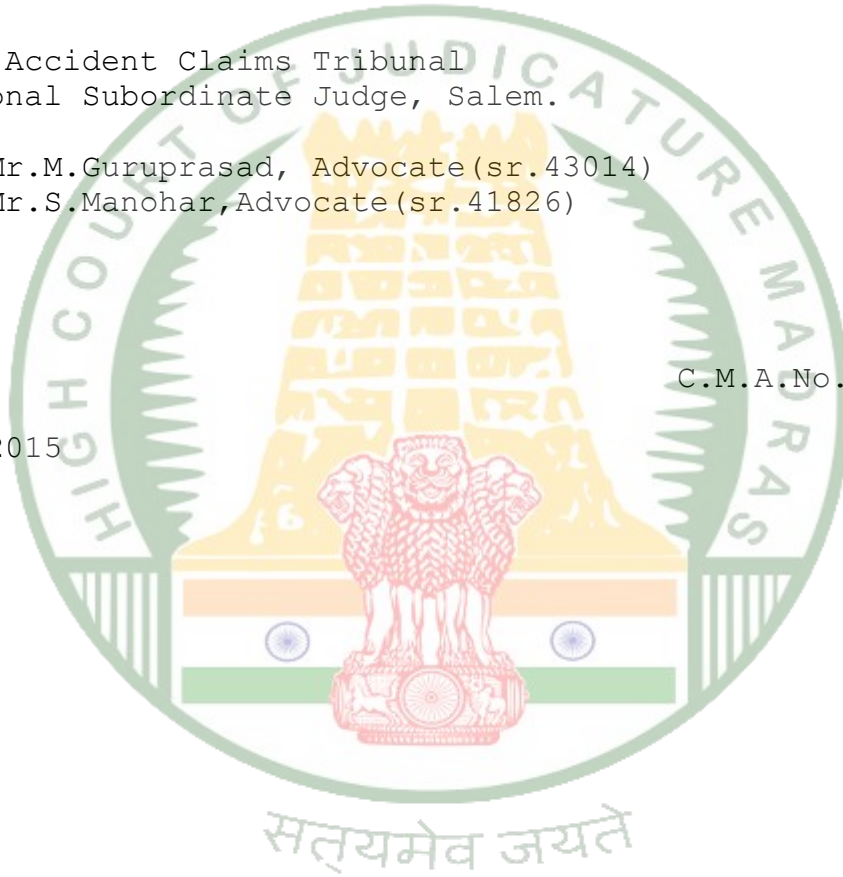
To

The Motor Accident Claims Tribunal
II Additional Subordinate Judge, Salem.

+1 cc to Mr.M.Guruprasad, Advocate(sr.43014)
+1 cc to Mr.S.Manohar,Advocate(sr.41826)

C.M.A.No.961 of 2011

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cp 20/10/2015



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