

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2015

CORAM

THE HON'BLE MS. JUSTICE K.B.K.VASUKI

C.M.A.No.1234 of 2008

S.R.Perumal Nadar

...Appellant

Vs.

1. T.Kuppusamy

2. The National Insurance Co. Pvt. Ltd.,
Divisional Office-II, II Floor,
Ramakrishna Road, Salem - 7.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the order and decretal order made in M.C.O.P.No.397 of 2004 on the file of the Motor Accidents Claims Tribunal/Additional District Judge, Fast Track Court No.1, Salem, dated 17.07.2007.

For Appellant : Mr.K.Kuppusamy

For Respondents : Mr.P.Thirunavukkarasu (R1) - no appearance
Mr.J.Chandran (R2)

J U D G M E N T

The claimant is the appellant herein and the appeal is filed for enhancement of compensation of Rs.1,28,838/- awarded by the Tribunal. Both the parties restricted their arguments on the quantum of compensation.

2. The facts admitted herein are that the appellant, aged about 70 years on the date of the accident, sustained grievous injuries in the accident that occurred due to the negligence on the part of the vehicle driver and he was hospitalised and inspite of best treatment, one of his hands was amputated and his disability was calculated at 70%. He suffered severe pain and agony during and after treatment and the appellant has to always depend on others for his day-to-day activities. However, the Tribunal awarded total compensation of Rs.1,28,838/- as follows:

i. Disability	: Rs.70,000/-
ii. Pain and suffering	: Rs. 5,000/-
iii. Medical Expenses	: Rs.52,172/-
iv. Transport Expenses	: Rs. 1,666/-

3. According to the learned counsel for the appellant/claimant, the amount awarded under each head is too low and is not sufficient enough to compensate the loss sustained and the sufferings undergone by the appellant.

4. This Court, having regard to the age of the injured and the nature of the disability and the expenses incurred and the physical sufferings undergone by the injured, is inclined to accept the arguments advanced on the side of the appellant/claimant.

5. Though the learned counsel for the 2nd respondent would seriously oppose the claim for enhancement of compensation, this Court is not inclined to accept the arguments advanced in support of the same.

6. Considering the factors as stated above, this Court deems it fit to enhance the award as follows:

a) Disability	: Rs. 1,40,000/-
b) Pain and suffering	: Rs. 50,000/-
c) Medical Expenses	: Rs. 60,000/-
d) Transport Expenses	: Rs. 10,000/-
e) Attendant Expenses (Past and future)	: Rs. 1,00,000/-
Total	: Rs. 3,60,000/-

The enhanced amount of Rs.2,31,162/- (Rs.3,60,000 - Rs.1,28,838) shall be payable together with interest at 7.5% per annum from the date of award till the date of payment. The second respondent/insurance company shall deposit the entire award amount within two months from the date of receipt of a copy of this order. On such deposit of the amount into the Court, the appellant/claimant is permitted to withdraw 50% of the amount in Court deposit and the balance shall be invested in anyone of the Nationalised Banks for a period of one year and the same shall be renewed periodically. The appellant/ claimant is entitled to withdraw the interest once in three months directly. The appellant/claimant is directed to pay the additional Court fee for the enhanced amount.

7. In the result, the Civil Miscellaneous Appeal is allowed. No costs.

va

Sd/-
Assistant Registrar (IV)

/True Copy/

To Sub-Assistant Registrar

1. The Motor Accidents Claims Tribunal/
Additional District Judge,
Fast Track Court No.1, Salem.

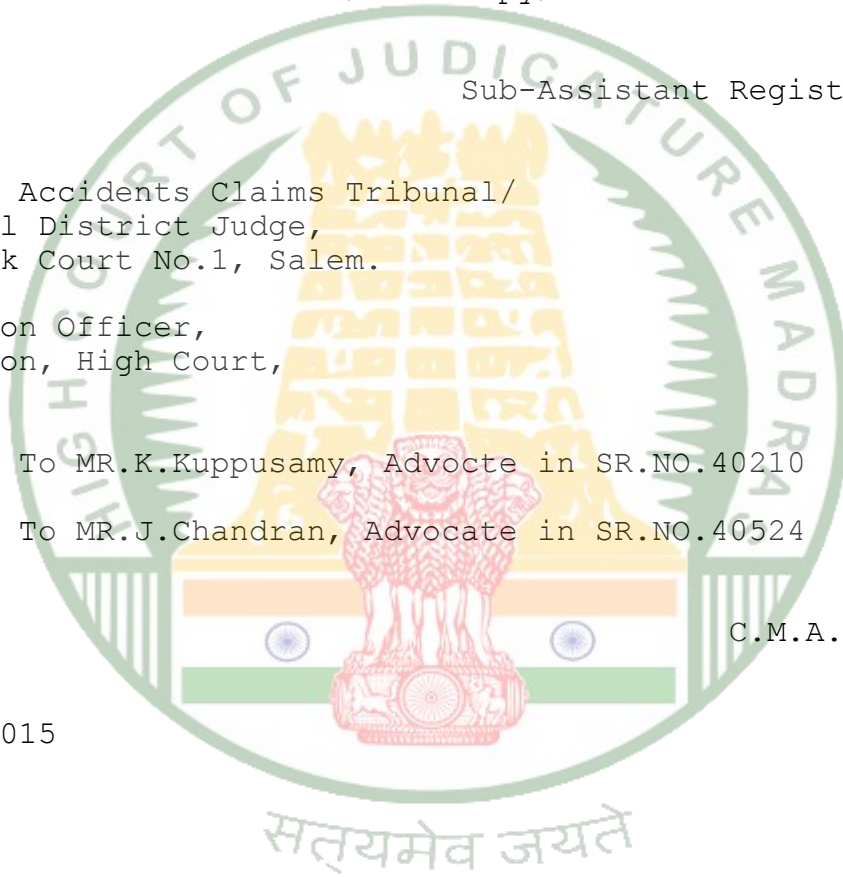
2. The Section Officer,
V.R.Section, High Court,
Madras.

+1 C.C. To MR.K.Kuppusamy, Advocate in SR.NO.40210

+1 C.C. To MR.J.Chandran, Advocate in SR.NO.40524

C.M.A.No.1234 of 2008

TS (CO)
sd : 14/10/2015



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