

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

C.M.A.No.3056 of 2010

K.Rajan

... Appellant

-Vs.-

1. S.Gunasingh
(R1 was set exparte in
the trial court)

2. National Insurance Co.Ltd.
S-7, II Floor,
T.V.K.Industrial Estate
Guindy, Chennai 600 032.

... Respondents

Civil Miscellaneous Appeal against the judgment and decree dated 30.08.2010 passed by the learned III Judge, Small Causes Court [Motor Accident Claims Tribunal], Chennai in MCOP No.907 of 2006.

For Appellant ... Mr.C.Munusamy for
M/s.C and K Law Firm

For Respondent ... Mr.M.Krishnamoorthy for R2

J U D G M E N T

The claimant is the appellant. He moved the Motor Accident Claims Tribunal, Chennai in M.C.O.P.No.907 of 2006 claiming a compensation in a sum of Rs.3,00,000/- for the grievous injury sustained by him in a motor vehicles accident that took place on 13.02.2006. The Tribunal awarded a sum of Rs.1,22,000/- which is under challenge in this appeal seeking enhancement of the compensation.

2. At the outset, both sides did not dispute the accident and they restricted their arguments only with regard to the quantum awarded.

3. Learned counsel appearing for the appellant would submit that even though the claimant has suffered multiple injuries and the Doctor PW2 has given the medical certificate assessing the permanent disability at 55%, the Court below did not take into

consideration the same and fixed the disability at 40% and awarded only a sum of Rs.80,000/- towards the same. He would further submit that the appellant is a T.V.mechanic and due to the accident, he could not continue his profession as he had a fracture in his right ankle. The learned counsel for the appellant would also submit that the appellant has taken treatment even after being discharged from the hospital for several days. Though the claimant had claimed a sum of Rs.3,00,000/- as compensation, the Tribunal has awarded only a sum of Rs.1,22,000/-. Accordingly, he would pray for enhancement of the same.

4. Learned Counsel appearing for the respondent/Insurance Company would submit that the Court below after taking into consideration the entire medical records and also the documents produced on the side of the claimant, fixed the permanent disability at 40% and awarded the compensation. Further, he would also submit that the Tribunal has also awarded compensation under loss of income when no document was produced to show that he was working as a TV mechanic, warranting no interference in this appeal.

5. Heard both sides and perused the records.

6. On a careful perusal of the judgment passed by the Court below, it is seen that the court below had awarded a total compensation of Rs.1,22,000/- under the following heads after considering the entire materials available before it.

- | | |
|--|---------------|
| 1. Permanent disability | - Rs.80,000/- |
| 2. Pain and suffering | - Rs.15,000/- |
| 3. Extra Nourishment | - Rs. 5,000/- |
| 4. Medical Expenses | - Rs. 5,000/- |
| 5. Loss of income for
2 months @Rs.4,500/-
per month | - Rs. 9,000/- |
| 6. Transportation | - Rs. 5,000/- |
| 7. Attendant charges | - Rs. 3,000/- |

Though the Court below has held that the claimant/appellant has suffered multiple fractures and has also stated that he had fractured his right ankle and has also taken treatment and that he could not do his work, as he was working as a TV mechanic, could have awarded more amount under the head for loss of income. It is seen that the Tribunal has awarded loss of income at Rs.4,500/- per month for two months and awarded Rs.9,000/- under the said head. This Court is inclined to

enhance the same to four months and fix at Rs.18,000/-. Further he would have travelled to hospital many times; further even after discharge from the hospital, he has taken treatment for nine days. Hence, under the head of transportation charges, a sum of Rs.5,000/- is added. This Court is also inclined to add another Rs.10,000/- towards the pain and suffering, suffered by the claimant; towards extra nourishment another Rs.2,000/- is added. Further the Court below has awarded a sum of Rs.3,000/- towards attendant charges and it is enhanced to Rs.5,000/-.

7. In the result, the judgment passed by the Court below is modified as follows:

1. Permanent disability (40%)	- Rs.80,000/-
2. Pain and suffering	- Rs.25,000/-
3. Extra Nourishment	- Rs. 7,000/-
4. Medical Expenses	- Rs. 5,000/-
5. Loss of income for 4 months @Rs.4,500/- per month	- Rs.18,000/-
6. Transportation	- Rs.10,000/-
7. Attendant charges	- Rs. 5,000/-

	- Rs.1,50,000/-
	=====

Accordingly the compensation awarded by the Tribunal is modified and fixed at Rs.1,50,000/- [Rupees one lakh and fifty thousand only].

8. Accordingly, the second respondent/Insurance Company is directed to deposit the entire compensation amount of Rs.1,50,000/-[Rupees one lakh and fifty thousand only] to the credit of MCOP No.907 of 2006 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai within a period of six weeks from the date of receipt of a copy of this order along with an interest at the rate of 7.5% from the date of petition. It is needless to state that on such deposit being made, the appellant/claimant is entitled to withdraw the entire compensation amount along with interest on making out a proper application before the court below.

9. With the above modification, this Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vj2

To

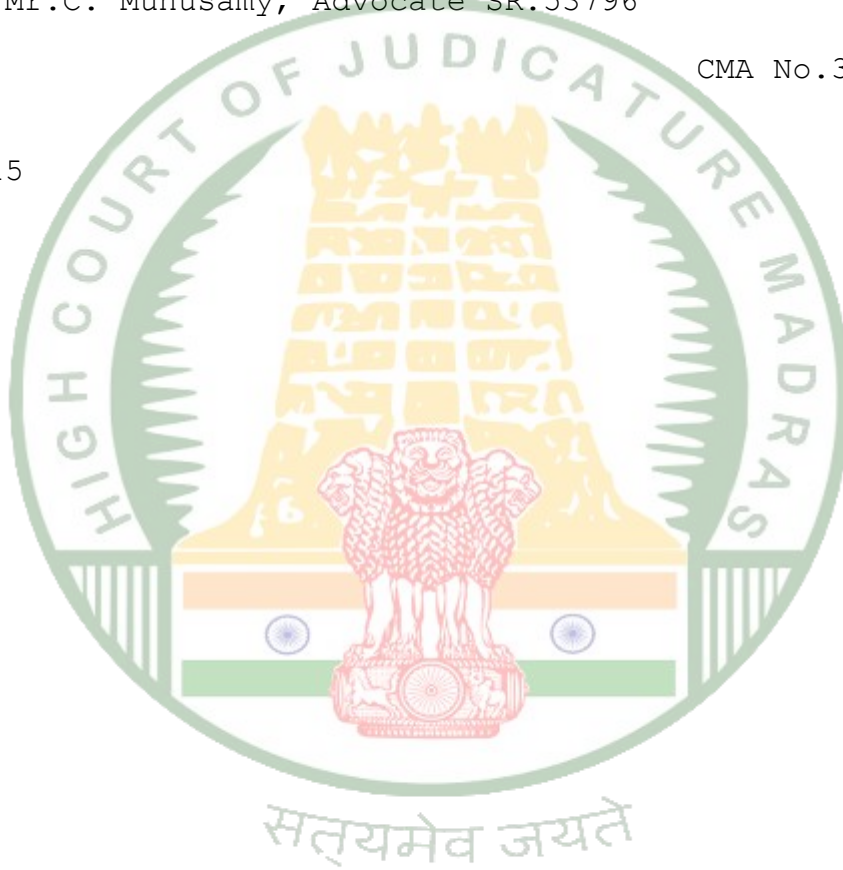
1. The III Judge
Small Causes Court
Motor Accident Claims Tribunal, Chennai.

2. The Section Officer,
Vr Section, High Court, Chennai-104.

+ 1 cc to Mr.M. Krishnamoorthy, Advocate sR.53792
+ 1 cc to Mr.C. Munusamy, Advocate SR.53796

CMA No.3056 of 2010

CA(CO)
EU 31.12.15



WEB COPY