

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

C.M.A.No.485 of 2009

P.Ammu

...Appellant/Claimant

-Vs-

1. K.Manoharan (R-1 set exparte in the trial Court)
2. United India Insurance Company Limited,
No.33, Whites Road, 3rd Floor,
Royapettah, Chennai-14. ...Respondents/Respondents

Civil Miscellaneous Appeal against the decree and judgment dated 24.10.2008 made in MACTOP.No.3004 of 2005 on the file of the III Judge,Court of Small Causes, Motor Accidents Claims Tribunal (Court of Small Causes), Chennai.

For Appellant	...	Mr.M.Swamikkannu
For 2 nd Respondent	...	Mr.G.Udayasankar
For 1 st respondent	...	Exparte

J U D G M E N T

The claimant is the appellant. She moved the III Judge, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai in MACTOP.No.3004 of 2005 claiming a compensation of Rs.9,00,000/- for the grievous injuries sustained by her in a motor vehicles accident. The Tribunal awarded a sum of Rs.71,788/-, 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 the Claims Tribunal, without taking into consideration of the injuries sustained by the appellant, has only awarded a meagre sum of Rs.19,800/- under the head of Permanent Disability as against the claim of Rs.2.50 Lakhs. The learned Counsel would further submit that due to the accident, the appellant's right hand fingers were amputated. Therefore, she could not continue her business of preparing household eatables at home and selling them. But the Tribunal failed to take note of the same and awarded a total compensation of Rs.71,788/-, though she claimed a sum of Rs.9,00,000/- as compensation. Therefore, he would pray for enhancement of the same.

4. Learned Counsel appearing for the 2nd respondent/Insurance Company would submit that the Court below, after taking into consideration of the entire medical records and also the documents produced on the side of the claimant, fixed the partial permanent disability at 12% and awarded a sum of Rs.19,800/-, which is just and reasonable. Further, he would submit that the Tribunal has awarded just and reasonable compensation under other heads also.

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.71,788/- under the following heads:

1.Loss of earnings	-	Rs. 5,000/-
2.Permanent Disability 12%	-	Rs. 19,800/-
3.Pain and Sufferings	-	Rs. 10,000/-
4.Loss of amenities	-	Rs. 10,000/-
5. Loss of expectation of life	-	Rs. 10,000/-
6. Transportation	-	Rs. 2,000/-
7. Extra Nourishment	-	Rs. 2,000/-
8. Damages to clothing and articles	-	Rs. 1,000/-
9. Medical expenses	-	Rs. 10,988/-
10.Other damages	-	Rs. 1,000/-
Total		Rs. 71,788/-

7. It is also seen that the appellant/claimant is a Snack Maker. Due to the accident, she has sustained 20% partial permanent disability as per Ex.P.6 Disability Certificate. But without taking into consideration of the same, the Tribunal has held that as per the Workmen Compensation Act, for amputation

of one phalanx of the middle finger, the disability is 7% and for amputation of one phalanx of the ring finger, the disability is 5%. Therefore, the appellant has suffered 12% total partial permanent disability and awarded Rs.19,800/- under the said head which is very meagre. Since as per the Disability Certificate, Ex.P.6, the appellant has suffered 20% disability, a sum of Rs.40,000/- is awarded by fixing the rate of Rs.2,000/- per percentage of disability which would be reasonable.

8. Further, as far as the pain and sufferings is concerned, the Tribunal has awarded a sum of Rs.10,000/-. Since due to the accident, the appellant's right hand fingers were amputated, the amount awarded under pain and sufferings is enhanced to Rs.50,000/- and also awarded a sum of Rs.10,000/- under Attendant Charges. Likewise, the amount awarded under the heads of Transportation and Extra Nourishment are enhanced from Rs.2,000/- to Rs.10,000/- each. The amount awarded under loss of earnings, loss of expectation of life and loss of amenities, damages to clothing and other damages are just and reasonable.

9. Accordingly, the enhanced award amount is as follows:

1.Loss of earnings	-	Rs. 5,000/-
2.Permanent Disability 20%	-	Rs.40,000/-
3.Pain and Sufferings	-	Rs.50,000/-
4.Loss of amenities	-	Rs.10,000/-
5. Loss of expectation of life	-	Rs.10,000/-
6. Transportation	-	Rs.10,000/-
7. Extra Nourishment	-	Rs.10,000/-
8. Damages to clothing and articles	-	Rs. 1,000/-
9. Medical expenses	-	Rs.10,988/-
10. Other damages	-	Rs. 1,000/-
11. Attendant charges	-	Rs.10,000/-

Total Rs.1,57,988/-
rounded to Rs.1,58,000/-

10. The 2nd respondent/Insurance Company is directed to deposit the entire enhanced compensation amount of Rs.1,58,000/- [Rupees One Lakh and Fifty Eight Thousand only] to the credit of MACTOP No.3004 of 2005 on the file of the III Judge, Motor Accident Claims Tribunal, Small Causes Court, Chennai, within a period of six weeks from the date of receipt of a copy of this order along with 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.

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

sd/
ASSISTANT REGISTRAR (CCC)

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SUB-ASSISTANT REGISTRAR

tsi

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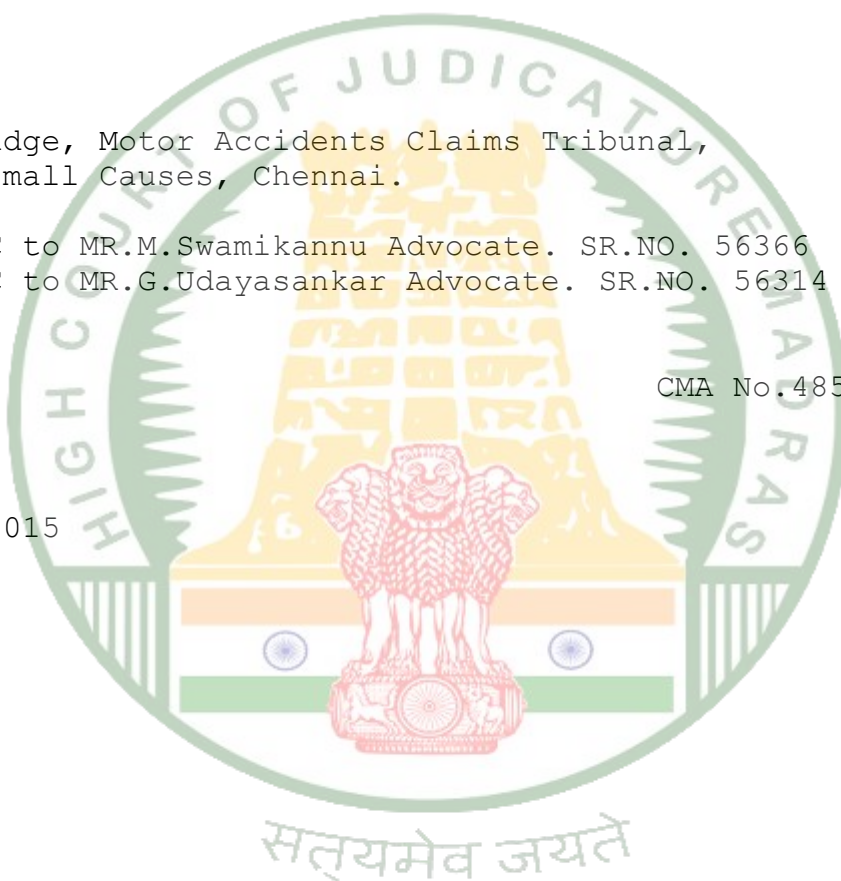
The III Judge, Motor Accidents Claims Tribunal,
Court of Small Causes, Chennai.

+1 CC to MR.M.Swamikannu Advocate. SR.NO. 56366

+1 CC to MR.G.Udayasankar Advocate. SR.NO. 56314

CMA No.485 of 2009

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JD 20/11/2015



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