

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.1644 of 2016

V.Marimuthu ..Appellant/Petitioner

versus

1. James Paranbas

2. Sakthivel

3. M/s.Sri Ram General Insurance
Co. Ltd.,

E/9, EPIP, RIICO Industrial Area,
Sitapura, Jaipur,
Rajasthan 303 022.

...Respondents/Respondents

(R1 and R2 remained ex parte
before the Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 25.09.2014 made in M.C.O.P.No.897 of 2011 on the file of Motor Accident claims Tribunal, Additional District Court, Namakkal.

For Appellant : Mr.Ma.Pa.Thangavel

For R1 and R2 : Ex parte

For R3 : Mr.S.Dhakshinamoorthy

JUDGMENT

V.Marimuthu, aged about 55 years, an Agriculturist, earning a sum of Rs.6,000/- per month, met with an accident that took place on 24.10.2011 and sustained injuries, in respect of which, he filed a claim petition in M.C.O.P.No.897 of 2011 before the Motor Accident claims Tribunal (Additional District Court), Namakkal, claiming compensation of Rs.5,00,000/-.

2. As against the claim made, the Tribunal, after considering the oral and documentary evidence, has awarded a sum of Rs.3,13,500/- as compensation along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The break-up details of the award reads as under:

45% of disability	-	Rs.	90,000/-
Pain and sufferings	-	Rs.	30,000/-
Loss of enjoyment of amenities	-	Rs.	30,000/-
Attender charges	-	Rs.	10,000/-
Transport expenses	-	Rs.	10,000/-
Extra nourishment	-	Rs.	10,000/-

Partial Disability	-	Rs.1,20,000/-
Medical Expenses	-	Rs. 13,450/-
Total	-	Rs.3,13,450/-
Rounded off	-	Rs.3,13,500/-

Challenging the quantum of compensation as inadequate, the claimant has filed this Civil Miscellaneous Appeal.

3. Learned counsel for the appellant would submit that according to the disability certificate, the Doctor has assessed the permanent disability at 45% and therefore, it is a case where the loss of earning capacity should have been granted by the Tribunal, adopting multiplier method.

4. Learned counsel for the 3rd respondent/Insurance Company would point out that as per the disability certificate filed under Ex.P2, it is only an evidence for contusion and united fracture and as there is no disability, there is no scope for adopting multiplier method of quantification and the Tribunal rightly did not adopt multiplier method.

5. The evidence of the doctor is that there had been bleeding after four years and that too in the part of brain. It is highly unbelievable, because, the finding of bleeding after four years cannot be attributed to the accident which took place about four years back, unless there had been evidence of intermittent bleeding for a period of four years.

6. The fracture in the head as well as in the brain would have caused forgetfulness, headache and inability to do work. They are likely to be hidden or silent. The claimant has spoken about the forgetfulness, headache and inability to do work. These disabilities are nagging preventing the claimant from performing his normal duties with efficiency. Therefore, the compensation awarded by the claims Tribunal under various heads cannot be said to be inadequate. However, it is not a case for enhancement as the disability as assessed by the Doctor is not supported by any medical records, as admitted by him in the evidence. In such circumstances, the claim for enhancement is dismissed.

6. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 25.09.2014 passed in M.C.O.P.No.897 of 2011 by the Motor Accident claims Tribunal, Additional District Court, Namakkal. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

To

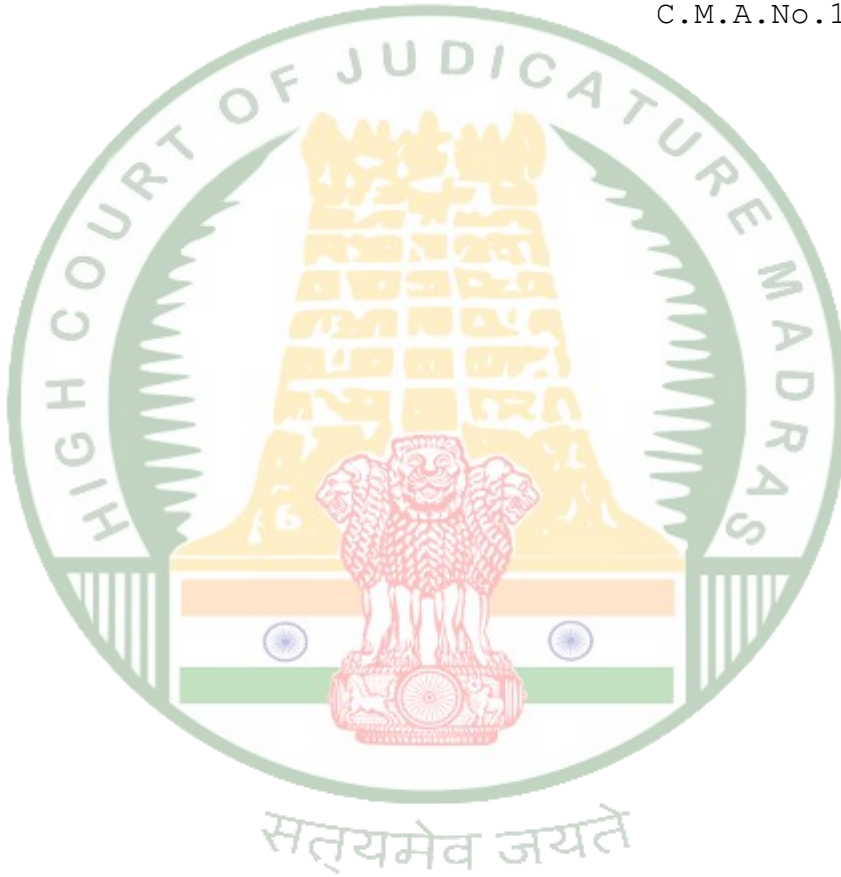
The Motor Accident claims Tribunal,
Additional District Court,
Namakkal.

+1 cc to Mr.S. Dhakshinamoorthy, Advocate Sr.76135

+1cc to M/s.MA.P.Thangavel, Advocate sr.74929 (9/6/2017)

C.M.A.No.1644 of 2016

RJ (CO)
Eu 22.5.17



WEB COPY