

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1942 of 2011

R.Shankar

... Appellant/Petitioner

Vs.

1. G.Natarajan

2. The National Insurance Co. Ltd.,
751, 3rd Street,
Anna Salai,
Chennai - 2. .. Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 21.06.2006 made in M.C.O.P.No.651 of 2001 on the file of the II Small Causes Court, Motor Accidents Claims Tribunal, Chennai.

For Appellant : Mr.Anand for M/s.Anand and Suryas

For 2nd Respondent : Mr.M.Krishnamoorthy

J U D G M E N T

Challenging the judgment dated 21.06.2006 passed by the Motor Accidents Claims Tribunal, II Small Causes Court, Chennai in M.C.O.P.No.651 of 2001, the aggrieved claimant has come up with this appeal seeking enhancement of compensation.

2. For the injuries sustained in an accident which occurred on 01.10.2000, when he was travelling as a passenger in an Auto Rickshaw on Old Mahabalipuram Road, the claimant filed a claim petition before the Tribunal seeking a sum of Rs.10,00,000/- as compensation.

3. The Tribunal, on a consideration of the entire oral and documentary evidence, held that it is the driver of the Auto Rickshaw, who drove the vehicle in a rash and negligent manner and held him responsible for the accident and awarded a sum of Rs.1,93,000/- as compensation to the claimant, under the following heads:

Heads	Amount
Extra Nourishment	Rs. 3,000.00
Pain and suffering	Rs. 15,000.00
Permanent Disability	Rs. 50,000.00
Loss of earning power	Rs.1,00,000.00
Mental Torture	Rs. 25,000.00
Total	Rs.1,93,000.00

4. It is the contention of the learned counsel for the appellant/claimant that the quantum of compensation awarded by the Tribunal is meagre in view of the injuries sustained by the claimant.

5. On the other hand, learned counsel appearing for the 2nd respondent/Insurance Company submitted that the appellant/claimant himself has restricted his claim in the appeal to a sum of Rs.2,50,000/- and that though the award was passed in the year 2006, the present appeal is filed only in the year 2011 and hence prayed for dismissal of the appeal.

6. Heard the learned counsel on either side and perused the material documents placed on record.

7. From the records, it is seen that the claimant, at the time of accident, was aged 21 years. He claims to be working as a Collection Boy, earning a sum of Rs.3,000/- per month. Due to the accident, he sustained fracture in Bi-malleolar right ankle and 1 to 3 metatarsal bones, which led to amputation of toes, fracture bi-malleolar with fracture talus on the left ankle. Also, there is extensive loss of skin in both legs and multiple injuries all over the body. He had taken treatment in Government Stanley Hospital as an inpatient for 98 days, i.e. from 01.10.2000 to 06.01.2001. For the said injuries, P.W.2 - Doctor has assessed the permanent disability of the claimant at 55%.

8. Admittedly, there is shortening of leg apart from the other injuries sustained by the claimant. Taking into account the date of accident, this Court is not inclined to interfere with the monthly income fixed by the Tribunal at Rs.3000/-. Accordingly, fixing Rs.3000/- as the monthly income of the claimant and applying the multiplier of '18' to the annual income, the total loss of income works out to Rs.6,48,000/- (Rs.3000/- x 12 x 18) and 55% (disability) of Rs.6,48,000/- works out to Rs.3,56,400/-, which sum is awarded as a just and reasonable compensation towards "loss of earning power".

9. In view of the above, compensation under other heads are also modified as per the tabular column given below:

Heads	Amount awarded by the Tribunal	Amount enhanced by this Court
Loss of six months' income during the period of treatment	-	Rs. 18,000.00
Transport to Hospital		Rs. 5,000.00
Damage to Clothes	-	Rs. 500.00
Extra Nourishment	Rs. 3,000.00	Rs. 5,000.00
Pain and suffering	Rs. 15,000.00	Rs. 50,000.00
Permanent Disability	Rs. 50,000.00	Rs. 3,56,400.00
Loss of earning power	Rs.1,00,000.00	
Mental Agony	Rs. 25,000.00	Rs. 25,000.00
Total	Rs.1,93,000.00	Rs. 4,59,900.00 r/off to Rs.4,60,000.00

10. In fine, the award passed by the Tribunal is enhanced and the appellant/claimant is entitled to a sum of Rs.4,60,000/- (Rupees Four Lakhs Sixty Thousand only) as revised compensation. The interest fixed by the Tribunal at 7.5% per annum is confirmed. However, taking note of the fact that this appeal has been filed in the year 2011, five years from the date of passing of the award, i.e. 2006, the appellant/claimant is not entitled to interest from the date of passing the award till the date of filing the present appeal.

11. It is made clear that the 2nd respondent/Insurance Company is directed to deposit the revised compensation awarded by this Court, less the amount already deposited if any, together with accrued interest to the credit of M.C.O.P.No.651 of 2001 on the file of the Motor Accidents Claims Tribunal, II Small Causes Court, Chennai within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the appellant/claimant in the form of a crossed Account Payee Cheque, favouring only the appellant/claimant and it should not be issued in favour of any other person/Company.

12. Further, it is seen that the appellant/claimant has paid Court fee valuing the appeal for a sum of Rs.2,50,000/-. In view of the enhancement of award, the appellant is directed to pay the Court fee for the enhanced award amount, after adjusting the Court fee that has already been paid by him.

The Civil Miscellaneous Appeal is allowed with the above direction and observation. No costs.

aeb

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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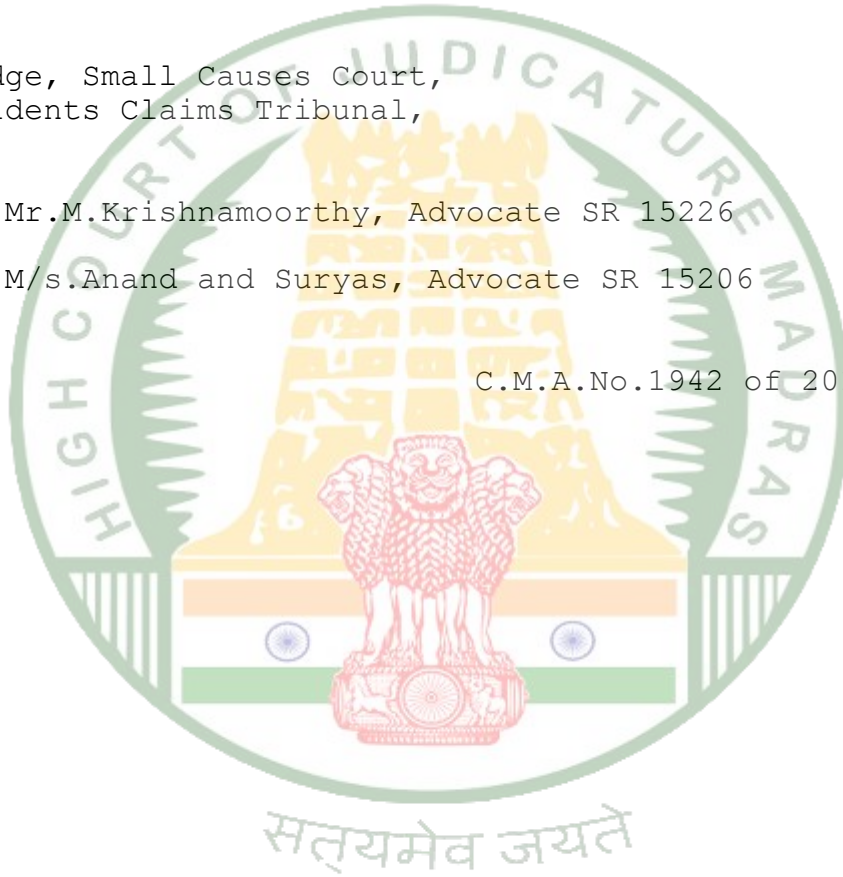
The II Judge, Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

+ 1 cc to Mr.M.Krishnamoorthy, Advocate SR 15226

+ 1 cc to M/s.Anand and Suryas, Advocate SR 15206

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