

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2017

CORAM

THE HONOURABLE DR.JUSTICE.S.VIMALA

C.M.A.No.1493 of 2017

Shriram General Insurance Co. Ltd.,
No.66, 2nd Floor, City Center Complex,
Thirumalai Pillai Road,
T.Nagar, Chennai -17. ... Appellant/2nd Respondent

Vs

1. V.J. Kuppuswamy ... 1st Respondent/Petitioner
2. S. Maaboo Basha ... 2nd Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 22.09.2014 made in M.C.O.P. No.3917 of 2011 on the file of Motor Accident Claims Tribunal II Court of Small Causes, Chennai.

For Appellant : Mr.S. Dhakshnamoorthy

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Appellant/Insurance Company challenging the quantum of compensation.

2. The petitioner/claimant Kuppusamy, aged about 46 years, employed as a Driver, who was earning a sum of Rs.10,000/-per month, met with an accident in which he sustained grievous injuries. The injured has taken treatment at Ambur Government Hospital, Rajiv Gandhi Government General Hospital and later on, he had taken treatment at Private Hospital.

3. The nature of injuries suffered by the petitioner can be better explained by extracting the details of surgery done on him and the extract reads as under;

"Ex.P.2 Discharge summary reads to the effect that he had taken treatment as inpatient at Government Hospital, Ambur from 18.03.2011 to 20.03.2011 for a period of 3 days, wherein it is mentioned that the

petitioner sustained multiple injuries. Further as per Ex.P.3, he took inpatient treatment at Rajiv Gandhi Government General Hospital, Chennai from 11.06.2011 to 16.07.2011 for a period of 36 days. He had suffered C5-C6 Traumatic anterior Listhesis, for which C-6 Median Corpectomy, C6-c7 discectomy and Anterior plate fixation C5-C7 done. Ex.P.7 Scan report dated 21.03.2011 shows that Retrolisthesis of C5 vertebral body causing compression of the spinal canal with fluid collection in the C5 PLL, Suggested CT cervical spine to evaluate the bony structures. Ex.P.15 Disability certificate issued by P.W.2 Dr.N.Saichandran also speaks about the same"

4. The learned counsel for the appellant would submit that when the medical bills have been produced only to the extent of Rs.5,876.15 and the Physiotherapy bill being for Rs.250, the tribunal erred in awarding a huge amount of Rs.25000/- towards medical expenses. Whether it is reasonably possible to get a treatment for dislocation of bones in the spinal cord for a sum of Rs.5876/- is the issue raised by the learned counsel for the respondent.

5. Perhaps, out of ignorance/want of knowledge, the claimant would not have maintained the medical bills. From the period of treatment, nature of injury, nature of treatment, the Court can guess under normal circumstances, under natural course of event, how much could have been spent by the injured towards treatment. Having regard to the nature of surgery undergone, as stated supra, the award passed i.e., Rs. 25,000/- towards medical expenses cannot be set to be excessive.

6. It is further contented that, the tribunal went wrong in awarding under the head of mental agony, when it has awarded Rs.40,000/-towards pain and sufferings. This contention is well founded, but the fact remains that the future prospective increase in income of the employee has not been taken into account while assessing the loss of earning capacity. When there is such a great lapse, this meager amount awarded under the head of mental agony would be compensatory of a huge amount to be awarded under the head of loss of earning capacity.

Therefore, the contention that the amount awarded is excessive cannot be accepted and the appeal has no merits and also the Civil Miscellaneous Appeal is dismissed.

7. The Civil Miscellaneous Appeal is dismissed, confirming the award dated 22.09.2014 made in M.C.O.P. No.3917 of 2011 by the Motor Accident Claims Tribunal II Court of Small Causes, Chennai. No costs. Consequently Miscellaneous Petition is colsed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msm/ksa

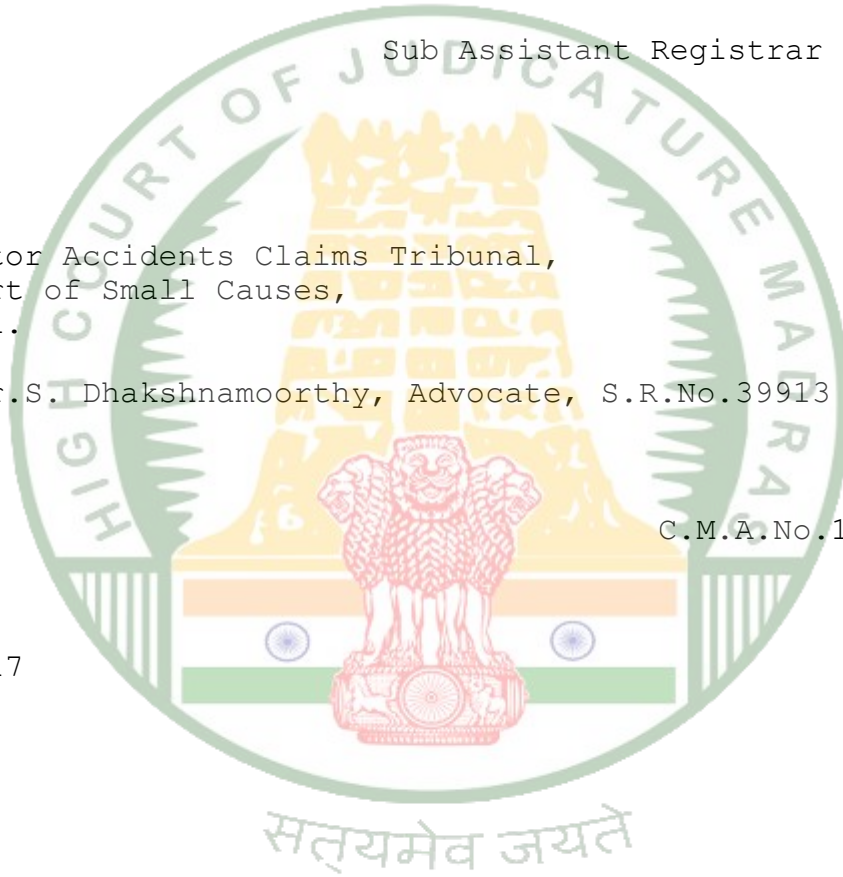
To

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

+1cc to Mr.S.Dhakshnamoorthy, Advocate, S.R.No.39913

C.M.A.No.1493 of 2017

NRI (CO)
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