

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 19.06.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1516 of 2017

M.Shankar

.. Appellant/Petitioner

versus

1. Lalitha kumari
2. United India Insurance Company Ltd,
No.38,Anna Salai,
Chennai - 21.

Now office at
United India Insurance Company Ltd,
Third Party Claims Office,
No.134, Greams Road,
Chennai - 6.

.. Respondents/Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order and Decree dated 28.10.2013 made in M.C.O.P.No.2491 of 2002 on the file of the Motor Accident Claims Tribunal/III Small Causes Court, at Chennai.

For appellant : Mr.J.Ramkumar

For Respondents: Mr.D.Bhaskaran For R-2

J U D G M E N T

The appeal has been filed by the claimant, challenging the quantum of compensation, as inadequate.

2. The details of the award passed by the claims Tribunal would give a complete picture to this Court to find out, whether the award passed by the claims Tribunal under each and every heads is reasonable.

Loss of income	Rs.18,000/-
Transport to Hospital	Rs. 3,000/-
Extra nourishment	Rs. 3,000/-
Damage to clothing	Rs. 1,000/-
Medical Expenses	Rs.10,000/-
Pain and sufferings	Rs.20,000/-
Permanent disability	Rs.60,000/-

Total Rs.1,15,000/-

3. The learned counsel for the appellant would submit that when the Doctor has certified the disability at 40%, the Tribunal has made injustice to the claimant by restricting the percentage of disability at 30%, without any rhyme or reason and therefore the percentage of the disability as certified by the Doctor has to be taken into account in assessing the quantum of compensation.

4. If the Court look into the evidence of the Doctor it would be evident that the evidence of the Doctor would not suffer any disablement and therefore the evidence of the Doctor with regard to permanent disability fixed at 40%, ought to have been accepted by the Tribunal.

5. If that is taken into consideration, for 40% of disablement, the compensation at the rate of Rs.2000/- per percentage i.e., $40 \times \text{Rs.}2,000 = \text{Rs.}80,000$ has to be awarded. Therefore, there will be an increase of Rs.20,000/- under the head of permanent disablement, considering the age of the claimant as 26.

6. Considering the period of treatment and nature of injuries sustained by the claimant, the Tribunal ought to have considered the compensation on account of loss of enjoyment of amenities.

7. Hence, considering the fact that at very young age, the claimant has suffered permanent disablement, a sum of Rs.20,000/- is awarded towards loss of enjoyment of amenities. Thus, there shall be an overall increase of Rs.40,000/- in the total amount of compensation awarded by the claims Tribunal.

8. In the result, Civil Miscellaneous Appeal is partly-allowed, by enhancing the total amount of compensation from Rs.1,15,000/- to Rs.1,55,000/-, which is payable interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. Consequently, connected miscellaneous petition is closed. No costs.

9. The second respondent / Insurance Company is directed to deposit the entire award amount, along with interest and costs as determined by this Court, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the savings bank account of the claimant

through RTGS within a period of two weeks. The claimant shall pay the necessary Court fees for the enhanced compensation amount before receiving the copy of this judgment. The claimant is not entitled to any interest for the default period.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

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

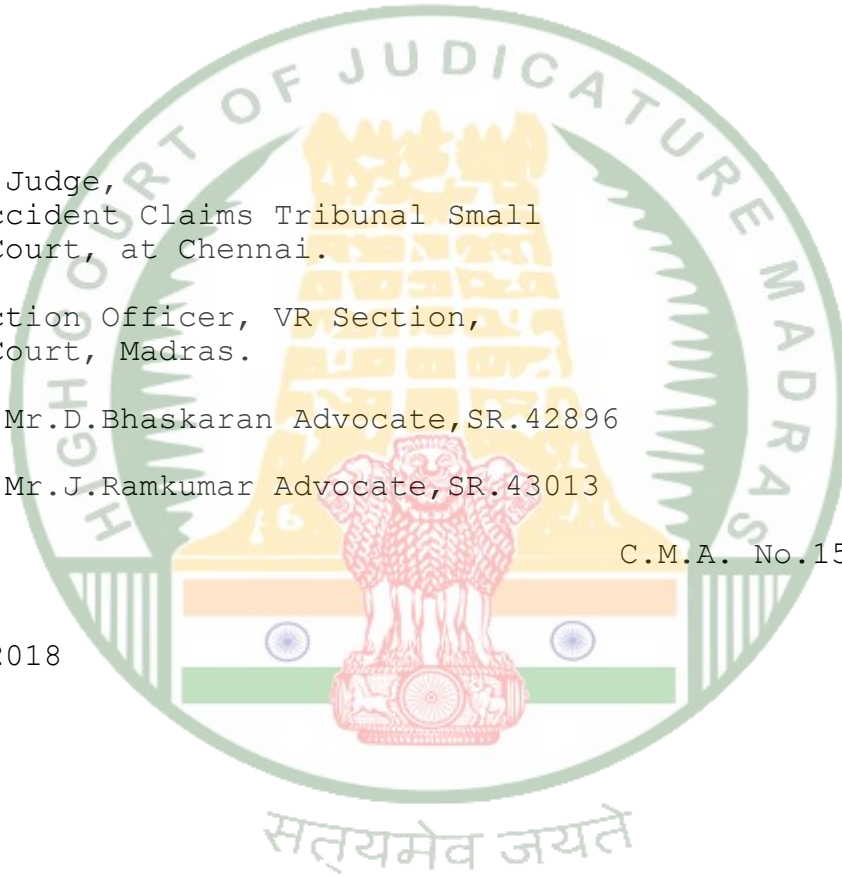
2. The Section Officer, VR Section,
High Court, Madras.

+ 1 cc to Mr.D.Bhaskaran Advocate,SR.42896

+ 1 cc to Mr.J.Ramkumar Advocate,SR.43013

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