

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

C.M.A.No.1789 of 2017

M.Sundaram

...

Appellant

Versus

1.R.Vasu

2. New India Assurance Company Limited,
No.45, Moore Street,
Chennai - 600 001.

...

Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 07.11.2014 made in M.A.C.T.O.P. No.1138 of 2013 on the file of Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Ms.M.Malar

For Respondents: Mr.Prem

for Mr.R.Thirunavukarasu

JUDGMENT

The Senior Citizen, aged 70 years, by name M.Sundaram, filed a claim petition in respect of injuries sustained and consequent disability of 40%. According to him, he filed a claim petition claiming a sum of Rs.6,00,000/- and the Tribunal has quantified the award at Rs.2,26,463/-.

2. Aggrieved over the same as inadequate, the claimant has preferred this appeal.

3. The learned counsel for the appellant would point out that the claimant has suffered several ruptures and fractures at the age of 70 i.e. mandibular symphysis, xygomatic complex, fracture right orbital wall, right eye globe rupture and fracture left II metatarsal bone. Therefore, considering his

age, adequate compensation for loss of earning capacity as well as disablement compensation have to be awarded.

4. The learned counsel for the second respondent / Insurance Company would point out that the loss of earning capacity has been awarded considering the disablement fixed at 40%. by the Tribunal.

5. A perusal of the award passed by the Claims Tribunal would go to show that for the 40% disability, the award of Rs.1,800/- per percentage was awarded which is very low. Hence, the same is fixed at Rs.3,000/- per percentage which comes to Rs.1,20,000/- under this head.

6. Considering the nature of injuries sustained, period of treatment and the consequent permanent disablement, and this disablement would cause problem in chewing the food, hence, loss of enjoyment amenities is estimated at Rs.10,000/-, Transportation charges is very low and it is enhanced from Rs.7,000/- to Rs.10,000/-. Thus, the overall compensation awarded is enhanced by Rs.61,000/-.

7. In the result, the Civil Miscellaneous Appeal is allowed by enhancing the compensation amount from Rs.2,26,463/- to Rs.2,87,463/-, which is payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. No costs.

8. The Insurance Company / second respondent is directed to deposit the compensation amount, as determined in this appeal, less the amount already deposited, with interest @ 7.5% per annum from the date of petition till the date of deposit to the credit of MCOP No.1138 of 2013 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, the Tribunal shall transfer the amount to the Savings Bank A/c. of the claimant through RTGS, forthwith. It is made clear that the claimant is not entitled for payment of interest for the default period. Necessary Court fee on the enhanced compensation amount shall be paid before the receipt of a copy of the Judgment.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

vsi2

To

1. The Presiding Officer,
Motor Accident Claims Tribunal, III Court of Small Causes,
Chennai.

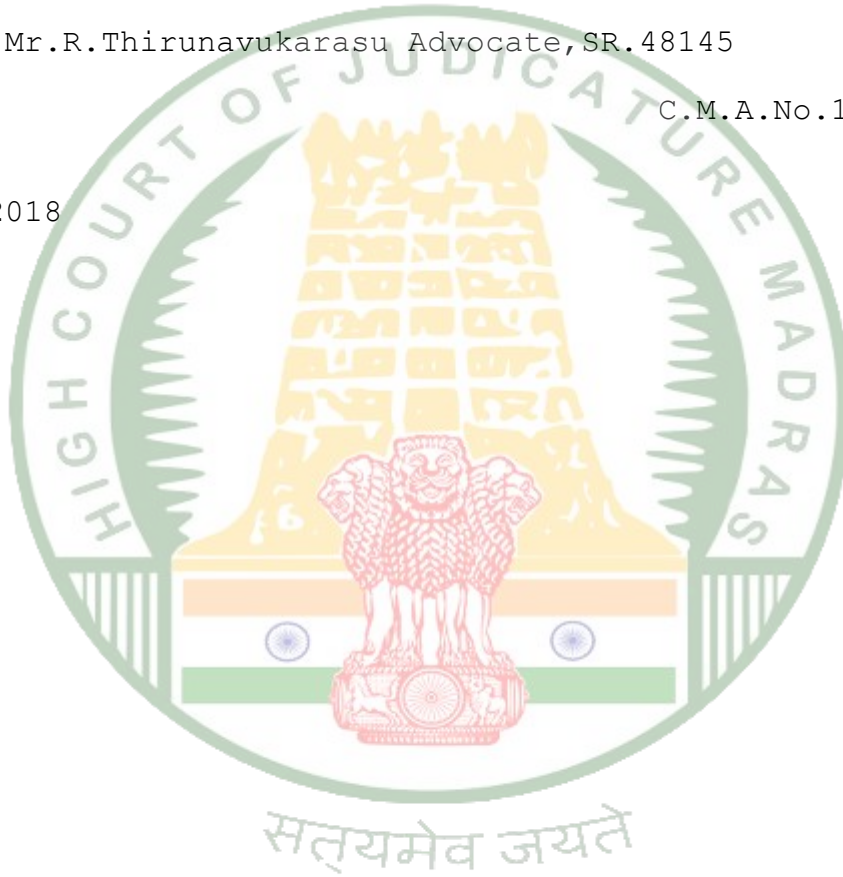
2. The Section Officer,
V.R. Section,
High Court, Madras - 104.

+ 1 cc to Ms.M.Malar Advocate,SR.48189

+ 1 cc to Mr.R.Thirunavukarasu Advocate,SR.48145

C.M.A.No.1789 of 2017

gmi(co)
nr 10/01/2018



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