

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.02.2017
CORAM:
THE HONOURABLE Dr. JUSTICE S.VIMALA
C.M.A.No.229 of 2017

Ravi

... Appellant / Claimant

versus

1. Chinnadurai

2. Sriram General Insurance Company
Limited,
No.66, Thirumalai Pillai Street,
T.Nagar, Chennai - 17.

... Respondents /
Respondents

(1st respondent remained ex parte
before the Tribunal)

Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 04.12.2013 made in M.C.O.P.No.1802 of 2012 on the file of the Motor Accident Claims Tribunal, (II Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj
For R1 : Ex parte
For R-2 : M/s.K.Poomalai

JUDGMENT

The claimant, Ravi, aged about 47 years, working as Watchman, earning a sum of Rs.8,000/- p.m. met with an accident on 22.03.2012 and sustained injuries, due to which, he filed a claim petition before the Motor Accident Claims Tribunal, (II Small Causes Court), Chennai, claiming compensation of Rs.10,00,000/-.

1.1. As against the claim made, the Tribunal has awarded the compensation of Rs.5,85,960/-. The break-up details of the compensation read as under:

WEB COPY

Loss of income for six months	-	Rs. 30,000/-
Transportation	-	Rs. 7,810/-
Extra nourishment	-	Rs. 10,000/-
Damage to clothes and bicycle	-	Rs. 2,000/-
Medical expenses	-	Rs. 6,150/-
Attendant charges	-	Rs. 25,000/-
Pain and suffering	-	Rs. 75,000/-
Loss of earning capacity (Rs.5,000/- x 12 x 13 x 50%)	-	Rs.3,90,000/-
Partial and permanent disability of 20% at the rate of Rs.2000/- per disability	-	Rs. 40,000/-
Total	-	Rs.5,85,960/-

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

2. Learned counsel appearing for the claimant submitted that P.W.2-Dr.J.R.R.Thiagarajan, who examined the claimant, assessed the permanent disability at 60% for B.K. amputation of left leg and assessed 25% partial permanent disablement for right ankle medical malleolus, fracture of I and II right Meta tarcel bones; but, the Tribunal has taken the disability as 20% only. Furthermore, due to amputation of left leg, the loss of earning capacity should be taken as 100% instead of 50%; the Tribunal has also not considered the compensation under the head of future prospect in the income of the claimant.

3. A perusal of the materials available on records would go to show that the claimant has sustained grievous injuries and also suffered total permanent disablement on account of amputation of left leg, which would have caused impact upon his earning capacity; therefore, future prospective increase in income has to be considered; taking the monthly income of the deceased at Rs.6,000/- and adding 30% of future prospective increase in income, considering the extent of amputation (below knee) taking the functional disability at 50%, the loss of earning capacity would be at Rs.6,08,400/- (Rs.6000/- + 30% x 12 x 13 x 50%).

3.1. Considering the age of the claimant, nature of injuries and period of treatment, the compensation awarded towards Transport expenses is enhanced to Rs.15,000/-, Extra nourishment is enhanced to Rs.20,000/-, Attendant charges is enhanced at Rs.40,000/-. The break-up details of the enhanced compensation read as under:

Loss of income for six months	-	Rs. 30,000/-
Transportation	-	Rs. 15,000/-
Extra nourishment	-	Rs. 20,000/-
Damage to clothes and bicycle	-	Rs. 2,000/-
Medical expenses	-	Rs. 6,150/-
Attendant charges	-	Rs. 40,000/-
Pain and sufferings	-	Rs. 75,000/-
Loss of earning capacity (Rs.6,000/- + 30% x 12 x 13 x 50%)	-	Rs.6,08,400/-
Partial and permanent disability of 20% at the rate of Rs.2000/- per disability	-	Rs. 40,000/-
Total	-	Rs.8,36,550/-
Rounded off	-	Rs.8,37,000/-

4. The Civil Miscellaneous Appeal is allowed enhancing the compensation from Rs.5,85,960/- to Rs.8,37,000/-, payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit (less the interest amount for the default period if any).

5. The Insurance Company shall deposit the amount awarded by this Court with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimant shall withdraw the same. The claimant shall pay the court fee for the enhanced compensation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

ogy

Sub Assistant Registrar

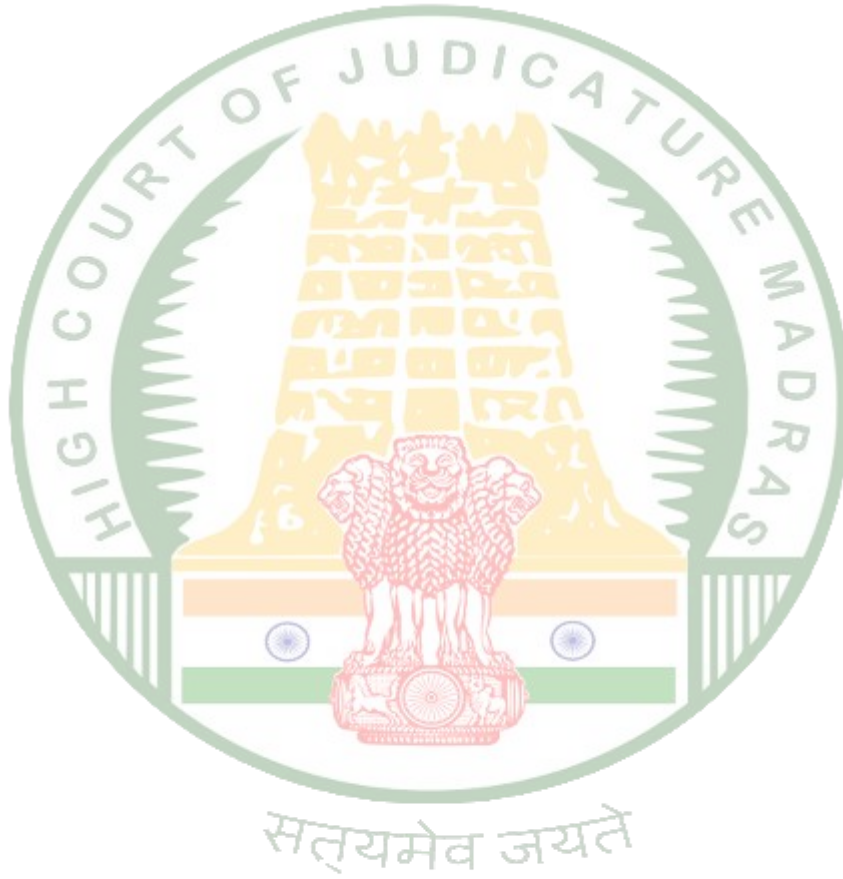
To

1. The Motor Accident Claims Tribunal,
Sub Court, Panruti.

+1 cc to M/s.K.Varadha Kamaraj Advocate sr 10326
+1 cc to M/s.K.Poomalai Advocate sr 10383

C.M.A.No.229 of 2017

vd(co)
aa09/10/2017



WEB COPY