

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2017

CORAM

THE HONOURABLE MS.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.837 of 2017

Mrs. C. Mala

... Appellant/Claimant

Versus

1. S. Shanthi

2. The Oriental Insurance Co. Ltd.,
Rep. by Branch Manager,
Jambu Bala Complex,
Katpadi Road,
Vellore District.

... Respondents/Respondents

Appeal filed under Section 173 of Motor Vehicle Accidents Act, 1988, against the order dated 13.09.2005 made in M.C.O.P. NO.135 of 2002 on the file of Motor Accident Claims Tribunal / Sub-Court, Arni.

For Appellant : Mr.P.Seshadri

For Respondent : Ms.J.Chandran (R2)
R1 Ex- parte

J U D G M E N T

Challenging the quantum of compensation as inadequate, the Claimant has come forward with this Civil Miscellaneous Appeal.

2. The Claimant, aged 35 years, who was an agricultural coolie, earning a sum of Rs.3,000/- p.m., met with an accident on 30.01.2002. Due to which, she sustained fracture in the middle finger of the right hand and also on the left big toe. Hence, she filed claim petition in M.C.O.P.No.135 of 2002, on the file of Motor Accident Claims Tribunal / Sub-Court, Arni, seeking compensation for a sum of Rs.1,50,000/-. The Tribunal, on consideration of the oral and documentary evidence has awarded a sum of Rs.35,300/-. The break-up details of the same are as under:

Disability	-	Rs.15,000/-
Simple and Grievous injury	-	Rs.14,000/-
Pain and sufferings	-	Rs. 3,000/-
Nutrition	-	Rs. 2,000/-
Transportation	-	Rs. 1,000/-
X-ray	-	Rs. 300/-

Rs.35,300/-

3. The learned counsel for the appellant submitted that for the grievous injuries sustained by the claimant, the compensation awarded by the tribunal is very low and the same has to be enhanced.

4. A perusal of the award passed by the Tribunal, the partial permanent disability has been fixed @ 15% and a sum of Rs.15,000/- is awarded towards disability. It is seen that P.W.-2- Doctor, has certified that there was a fracture in the middle finger on the right hand and also on the left big toe and as a result of the fracture, the claimant is unable to hold any object and could not do any work with ease. The claimant being woman, aged about 35 years, who was an agricultural coolie will not be in a position to do the work as before the accident and therefore the Doctor has certified that permanent disability as 25% as per Ex.P7. Considering the said fact, this Court is inclined to enhance the compensation under the head of Partial permanent disability fixing the same as 25% and granting Rs.2,000/- for each percentage which will come to Rs.50,000/-

5. So far as other heads are concerned, admittedly, the injured could not have any employment for four months, she has suffered loss of income at Rs.12,000/-, which has not been awarded by the Tribunal and which is now granted. The other head such as Pain and Sufferings are concerned, the Tribunal has awarded a sum of Rs.3,000/- which is now enhanced to Rs.10,000/-. The award towards nutrition was enhanced from Rs.2,000/- to Rs.3,000/- and as far as Transportation is concerned, the amount awarded towards transportation was enhanced from Rs.1,000 to Rs.5,000/-. Attendant charges to the claimant was not awarded by the Tribunal, when admittedly she suffered fracture on the toe. Hence a sum of Rs.5,000/- is awarded. As the medical expenses was not claimed by the claimant, the same was not awarded by the Tribunal. However, the tribunal has awarded a sum of Rs.3,00/- towards x-ray and the same was confirmed. The break-up details of the amount enhanced under various heads are as follows:

Disability	-	Rs.50,000/-
Loss of earnings	-	Rs.12,000/-
Pain and sufferings	-	Rs.10,000/-
Nutrition	-	Rs. 3,000/-
Transportation	-	Rs. 5,000/-
Attendant Charges	-	Rs. 5,000/-
X-ray	-	Rs. 300/-

		Rs.85,300/-

6. In the result, this appeal is partly allowed, enhancing the compensation from Rs.35,300/- to Rs.85,300/- as indicated above, with interest @ 9% per annum from the date of petition till the date of deposit. The Insurance Company is directed to deposit the enhanced amount, within a period four weeks from

the date of receipt of a copy of this order. On such deposit being made, the Claimant is permitted to withdraw the same. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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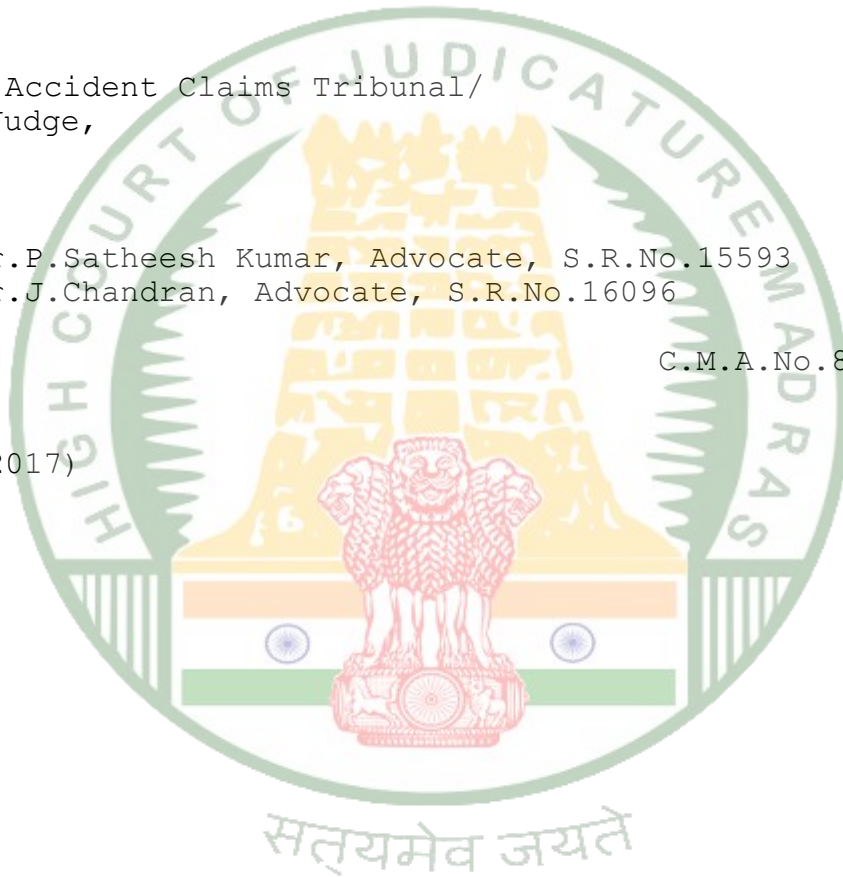
The Motor Accident Claims Tribunal/
Sub Judge,
Arni.

+1cc to Mr.P.Satheesh Kumar, Advocate, S.R.No.15593

+1cc to Mr.J.Chandran, Advocate, S.R.No.16096

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KGK(CO)
CA(10/04/2017)



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