

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 06.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 578 of 2014

P.Thangaprakasam

.. Appellant/Petitioner

versus

1. Sakthivel

2. Shriram General Insurance Company Limited,
City Centre Complex, 2nd Floor,
No.66, Thirumalai Pillai Road,
T.Nagar, Chennai-17 ..Respondents/Respondents
(1st Respondent was set exparte in the
Court below. Hence notice may be
dispensed with)

Appeal filed under Section 173 of the Motor Vehicles Act,
1988 against the order and Decree dated 04.07.2013 made in
M.C.O.P.No.2759 of 2010 on the file of Motor Accident Claims
Tribunal, (II Small Causes Court), Chennai.

For appellant : Mr.K.Varadha Kamaraj
For respondents: Mr.S.Dakshinamoorthy (R2)

J U D G M E N T

Mr.P.Thangaprakasam, a Lorry cleaner, earning a sum of
Rs.7,500/- per month, met with an accident on 07.06.2010. In
respect of the said accident, he filed a claim petition, in
M.C.O.P.No.2759 of 2010, before the Motor Accident Claims
Tribunal (II Small Causes Court), Chennai, seeking compensation
for a sum of Rs.10,00,000/-.

2. The Claims Tribunal, on considering the oral and
documentary evidence has awarded a sum of Rs. 2,34,400/- as
compensation. The break-up details of the same are as under:

Loss of income for 6 months	-	Rs.27,000/-
Transportation	-	Rs. 5,000/-
Extra nourishment	-	Rs.10,000/-
Damage to clothes	-	Rs. 1,000/-
Medical expenses	-	Rs.31,400/-
Attender Charges	-	Rs.10,000/-
Mental Agony to the petitioner and Loss of expectation of life-		Rs.10,000/-

Pain and suffering	-	Rs.50,000/-
Disability of 45% at the rate of Rs.2000/- per disability	-	Rs.90,000/-

Total	-	Rs.2,34,400

Aggrieved against the said order of the Tribunal, the claimant has come before this Court by filing the present appeal for enhancement of the award.

3. Heard the learned counsel for the appellant and the learned counsel for the second respondent.

4. The details of the injuries have been discussed by the Tribunal in paragraph 11 of the Judgment, which reads as under:

"It is evident from Ex.P2 Medico-Legal Register and Ex.P3 Discharge Summary issued by Parvathy Hospital that he was admitted on 08.06.2010 and discharged on 21.07.2010 for a period of 44 days. References are available from Ex.P3 that the petitioner sustained Head injury: Acute SAH in the left Sylvian fissure parafalcine sulci and left tentorial margin and diffuse axonal injury, Chest Injury: Right Haemo pneumothorax, left pneumothorax, chest rib fracture 1st -11th right side, fracture right clavicle, Hand injury: Fracture 5th Metacarpal right and fracture shaft of femur Facial injury: Fracture of anterior wall of left maxillary sinus and inferior wall of left orbit.

The petitioner had undergone surgery on 8.6.2010, whereby ICD right side done, on 10.06.2010 closed reduction and IL nailing right femur done and on 16.06.2010 right ICD removal done to the petitioner. Further as per Ex.P4 the petitioner took outpatient treatment in the very same hospital on 12.07.2007. Ex.P6 Disability Certificate issued by P.W.2 Dr.K.J.Mathiazhagan also speaks about the same. Hence the nature of injury as stated by the petitioner to have caused due to accident stands proved."

5. From a perusal of the award, it is seen that the Tribunal, on considering the age of the claimant and considering the fact that on account of the injuries sustained by him and the surgery undergone by him, he could not have been in a position to earn during the period of hospitalization and, therefore, has awarded a sum of Rs.27,000/- towards loss of income for six months.

6. Learned counsel appearing for the appellant/claimant submitted that the amount awarded per percentage of disability is on the lower side and considering the injuries sustained by the appellant/claimant, the amount should have been on the higher side. It is the further submission of the learned counsel for the appellant/claimant that the amounts awarded under the heads "Transportation" and "Extra Nourishment" are also on the lesser side and, therefore, the same needs to be enhanced as well.

7. A cursory perusal of the injuries sustained by the appellant/claimant together with the per percentage amount awarded (disablement compensation) shows that the said compensation awarded is clearly on the lower side. The Tribunal ought to have awarded a sum of Rs.3000/- per percentage of disability, considering the nature of injuries sustained by him. Therefore, this Court is of the view that the amount towards per percentage of disability should be fixed at Rs.3000/= and accordingly the award under compensation towards disability is fixed at Rs.1,35,000/= (Rs.3000 X 45). The amount awarded under the head "Transportation" is enhanced from Rs.5,000/- to Rs.10,000/- and the compensation awarded under the head "Extra Nourishment" is enhanced from Rs.10,000/- to Rs. 20,000/-. The compensation awarded under the heads other than noticed above stand confirmed. In all, the total compensation stands enhanced to Rs.2,94,400/= with interest @ 7.5% per annum from the date of petition, till the date of deposit.

8. In the result, this Civil Miscellaneous Appeal is allowed enhancing the amount of compensation from Rs.2,34,400/- to Rs.2,,94,400/-, with interest @ 7.5% per annum from the date of petition, till the date of deposit. The second respondent/Insurance Company is directed to deposit the award amount as quantified above, less the amount already deposited, if any, along with interest within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is permitted to withdraw. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

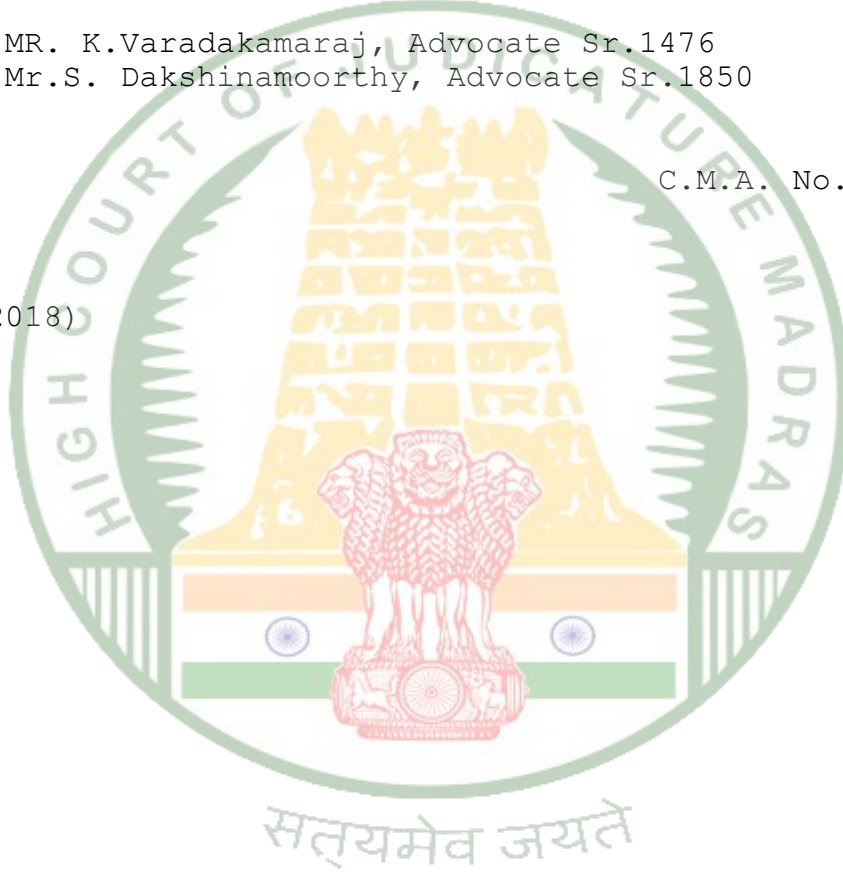
1. The Motor Accident Claims Tribunal
(II Small Causes Court)
Chennai.

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

+ 1 cc to MR. K.Varadakamaraj, Advocate Sr.1476
+ 1 cc to Mr.S. Dakshinamoorthy, Advocate Sr.1850

C.M.A. No.578 of 2014

SS(CO)
EU(20/02/2018)



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