

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 14.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A. No.1126 of 2008

Subramanian

... Appellant/Claimant

-vs-

1.M.V.Thigarajan

2.The United India Insurance Company Ltd.,
Tiruchirappalli. ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1989 against the judgment and decree dated 12.10.2007 made in M.C.O.P.No.88 of 2006 on the file of the Motor Accident Claims Tribunal (District Judge), Perambalur.

For Appellant : Mr.S.Kamadevan
For Respondent No.1 : No Appearance
For Respondent No.2 : Mr.S.Arun Kumar

J U D G M E N T

The appellant is the petitioner/claimant in M.C.O.P.No.88 of 2006 on the file of the Motor Accident Claims Tribunal (District Judge), Perambalur. The claimant has filed the above Motor Claims Original Petition claiming a compensation of Rs.3,00,000/- for the injuries sustained by him, in a motor accident.

2. In an accident that occurred on 17.09.2005 at about 13.45 hours, the appellant/claimant sustained injuries. According to the claimant, the accident occurred due to rash and negligent driving of the driver of the van owned by the first respondent. The vehicle was insured with the second respondent/ Insurance Company. He has prayed for a total compensation of Rs.3,00,000/-.

3. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to the negligent act of the driver of the said van and awarded compensation as detailed below:-

Loss of Disability	44,000.00
Loss of Income	500.00
Transportation	500.00
Nutrition	500.00
Pain and Sufferings	1,000.00
Total	47,500.00

The total compensation of Rs.47,500/- was directed to be paid with interest at the rate of 7.5% per annum.

4. The learned counsel appearing for the appellant/claimant would submit that the disability of the claimant was assessed at 44%. Exs.P.2 and P.3 [A.R. Copy and Wound Certificate] would show that the injuries and the treatment taken by the claimant. P.W.2 Doctor was examined to speak about the nature of injuries sustained by the claimant. He has issued Ex.P.6 Disability certificate. He assessed the disability at 44%. The Tribunal awarded Rs.44,000/-. The learned counsel for the appellant would contend that the amount fixed by the Tribunal towards disability was too low and the Tribunal ought to have awarded Rs.88,000/-.

5. The learned counsel appearing for the second respondent / Insurance Company submitted that the Tribunal correctly fixed the quantum of compensation. He further submitted that the claimant was a daily wage earner in a stone quarry.

6. In the case at hand, the claimant was 28 years old at the time of accident. He was also a daily wage earner. On account of the accident, he suffered 44% disability. P.W.2, Doctor assessed the disability. There is no contra evidence. The Tribunal awarded Rs.44,000/- under the head "disability". It has calculated the amount at the rate of Rs.1,000/- per percentage of disability. This Court, in NATIONAL INSURANCE CO. LTD. vs. G.RAMESH [2013 (2) TNMAC 583] has held that it would be more appropriate to accept Rs.3,000/- per percentage of disability. In the light of the decision and taking into account the disability suffered by the claimant, this Court is inclined to award Rs.88,000/- [44 x Rs.2,000/-] under the head of "disability".

6. The Tribunal awarded a meagre sum of Rs.1,000/- under the head "pain and sufferings". Having regard to the facts and circumstances, this Court is of the view, the amount awarded under this head is too low and it should be enhanced from Rs.1,000/- to Rs.10,000/-. The Tribunal has awarded a minimum amount of Rs.500/- towards loss of income. He would have lost considerable income due to the accident and during the period of

hospitalisation. Ex.P.4 shows that the claimant was referred to Trichy General Hospital from Perambalur Government Hospital. Hence, the amount under this head should be increased to Rs.6,500/-. The Tribunal has awarded a meagre sum of Rs.500/- towards "transport expenses" and Rs.500/- towards nutrition. Therefore, I am inclined to enhance the amount from Rs.500/- to Rs.1,500/- under the heads of "transport expenses" and "nutrition".

7. In view of the above, the compensation payable to the claimant is re-assessed as follows:

Sl. No.	Head of the award amount	Amount awarded by the Tribunal (Rs.)	Amount now enhanced by this Court (Rs.)
1.	Disability	44,000.00	88,000.00
2.	Loss of Income	500.00	6,500.00
3.	Transportation	500.00	1,500.00
4.	Nutrition	500.00	1,500.00
5.	Pain and Sufferings	1,000.00	10,000.00
	Total	47,500.00	1,07,500.00

8. In the result, the Civil Miscellaneous Appeal is allowed in part to the extent as mentioned above. The second respondent-Insurance Company is directed to deposit the enhanced award amount of Rs.1,07,500/- [Rupees One Lakh Seven Thousand Five Hundred only] with interest @ 7.5% per annum and costs, less the statutory deposit, to the credit of M.C.O.P.No.88 of 2006 on the file of the Motor Accident Claims Tribunal (District Judge), Perambalur, within a period of six weeks from the date of receipt of a copy of this order. There shall be no orders as to costs.

9. Since the Insurance Company had deposited the entire award amount, the appellant is permitted to withdraw the balance amount. The appellant/claimant is permitted to withdraw the enhanced compensation amount awarded by this Court with proportionate interest less the amount already withdrawn, if any, by making necessary application before the Tribunal.

s/d-
Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

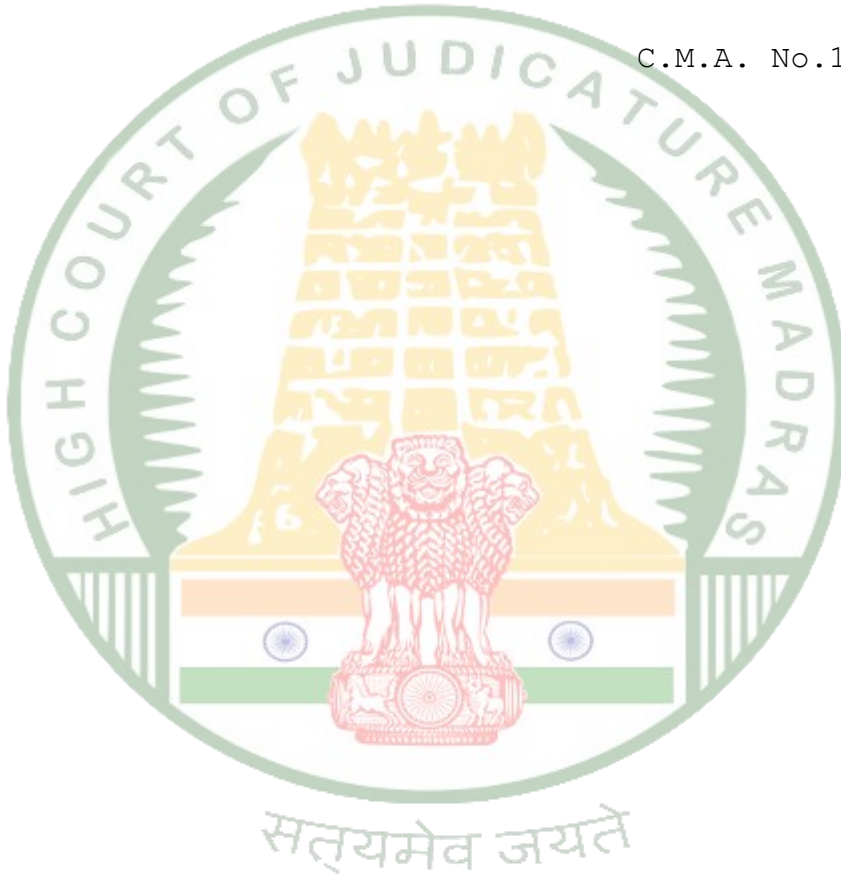
The Motor Accident Claims Tribunal
(District Judge),
Perambalur.

+1 CC to Mr. S. Arun Kumar, Advocate sr 9648

+1 CC to S. Kamadevan, Advocate sr 9606

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