

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1678 of 2008

M.D.Ravikumar

...Appellant/Petitioner

Vs

1.Dr.Anitha Kothandaraman

2.The United India Ins. Co. Ltd.,
Motor III Party Claims Office,
No.38, Anna Salai,
Chennai - 600 002.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 02.06.2006 made in MCOP.No.199 of 2005 on the file of the Motor Accident Claims Tribunal, Additional Dist. & Sessions Judge, Fast Track Court IV, Poonamallee.

For Appellant : Mrs.Jayanthi Bhaskar
for J.Mahalingam

For Respondent 1 : No appearance

For Respondent 2 : Mr.S.Arun Kumar

JUDGMENT

The instant appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 02.06.2006 passed by the Motor Accident Claims Tribunal (Additional Dist. & Sessions Judge, Fast Track Court IV, Poonamallee) in MCOP. No.199 of 2005.

The brief facts leading to the filing of the instant appeal are as follows:

2. The Appellant sustained injuries as a result of an accident that took place on 04.03.2004 caused by a car bearing Registration No.TN-01-L-6221 owned by the first respondent and insured with the second respondent. The Appellant preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.199 of 2005 seeking a compensation of Rs.2,00,000/-. The Motor Accident Claims Tribunal by its Award dated 02.06.2006 passed

in MCOP.No.199 of 2005, directed the second respondent to pay the Appellant a sum of Rs.50,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of the realisation.

3. Aggrieved by the quantum of compensation awarded by the Tribunal under its Award dated 02.06.2006, the instant appeal has been filed by the claimant seeking enhancement of compensation.

4. Heard, Mrs.Jayanthi Bhaskar, learned Counsel for the Appellant and Mr.S.Arun Kumar, learned Counsel for the second respondent. The first respondent has remained exparte both before the Tribunal as well as before this Court.

5. According to the learned Counsel for the Appellant, the compensation awarded by the Tribunal under the impugned Award to the Appellant is an inadequate compensation. According to the learned counsel for the Appellant, the Appellant sustained injuries namely (a) Extensive Loss of skin and muscles over lateral aspect of left leg, (b) Severe Head Injury, Concussion Brain, (c) Injuries over left ankle, (d) Serious Injuries over left knee and (e) Cut injuries over right hand and other serious multiple injuries all over the body. Further, according to the learned counsel for the Appellant, considering the nature of injuries sustained by the Appellant, the Tribunal has not adequately compensated the Appellant towards pain and suffering, permanent disability, loss of earning, medical charges, transportation cost and extra nourishment charges. According to the learned counsel for the Appellant, the Tribunal has also not awarded any compensation towards Attender Charges and loss of Amenities.

6. Per contra, the learned Counsel for the second respondent insurance company would submit that the Appellant has not sustained any fracture and the accident having taken place in the year 2004, the Appellant has been adequately compensated under the impugned Award.

7. This Court after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the respective counsels, observes the following:

(a) The nature of injuries sustained by the Appellant has not been disputed by the second respondent before the Tribunal.

(b) Admittedly, the Appellant was hospitalised for 37 days in Government Stanley Hospital which was also not disputed by the second respondent before the Tribunal.

(c) The Appellant had to undergo skin drafting because of the injuries sustained by him as a result of the accident. Under the impugned Award, even though the Appellant was hospitalised for 37 days, the Tribunal has awarded compensation towards Medical charges is low. In the considered view of this Court, a sum of Rs.5,500/- will have to be

awarded to the Appellant towards Medical Charges, considering the fact that the Appellant was hospitalised for 37 days.

(d) Under the impugned Award, even though the Appellant was hospitalised for 37 days, the Tribunal has not awarded any compensation towards attender charges. In the considered view of this Court, a sum of Rs.10,000/- will have to be awarded to the Appellant towards Attender Charges.

(e) Under the impugned Award, in the considered view of this court, the compensation awarded by the Tribunal to the Appellant towards permanent disability is also low. The Appellant had produced the disability which was marked as Ex.P5 before the Tribunal wherein the Doctor has assessed the disability of the Appellant at 20%, but under the impugned Award, the Tribunal without any basis has assessed the disability only at 15% and has awarded a sum of Rs.15,000/- as compensation to the Appellant towards permanent disability. In the considered view of this Court, the Tribunal ought to have awarded Rs.20,000/- as compensation towards permanent disability calculated at the rate of Rs.1,000/- per percentage of disability.

(f) In the considered view of this Court, considering the nature of injuries sustained by the Appellant, a sum of Rs.10,000/- will have to be awarded towards loss of Amenities.

8. In the result, the compensation awarded by the Tribunal under the impugned Award has to be enhanced in the following manner:

Head	Amount Awarded by the Tribunal	Modified Award Amount
Pain and Suffering	Rs.23,000/-	Rs.23,000/-
For Permanent Disability	Rs.15,000/-	Rs.20,000/-
Loss of earning	Rs.10,000/-	Rs.10,000/-
Medical Charges	Rs.500/-	Rs.5,500/-
Transportation cost	Rs.500/-	Rs.500/-
Extra nourishment	Rs.1,000/-	Rs.1,000/-
Attender Charges	Nil	Rs.10,000/-
Loss of Amenities	Nil	Rs.10,000/-
Total	Rs.50,000/-	Rs.80,000/-

9. The second respondent is directed to deposit the modified Award amount of Rs.80,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit, after deducting the amount that has already been deposited, to the credit of MCOP.No. 199 of 2005 on the file of the Motor Accident Claims Tribunal, Additional Dist. &

Sessions Judge, Fast Track Court IV, Poonamallee, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Appellant is permitted to withdraw the amount lying to the credit of MCOP.No.199 of 2005 by filing an appropriate application.

10. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nl

To

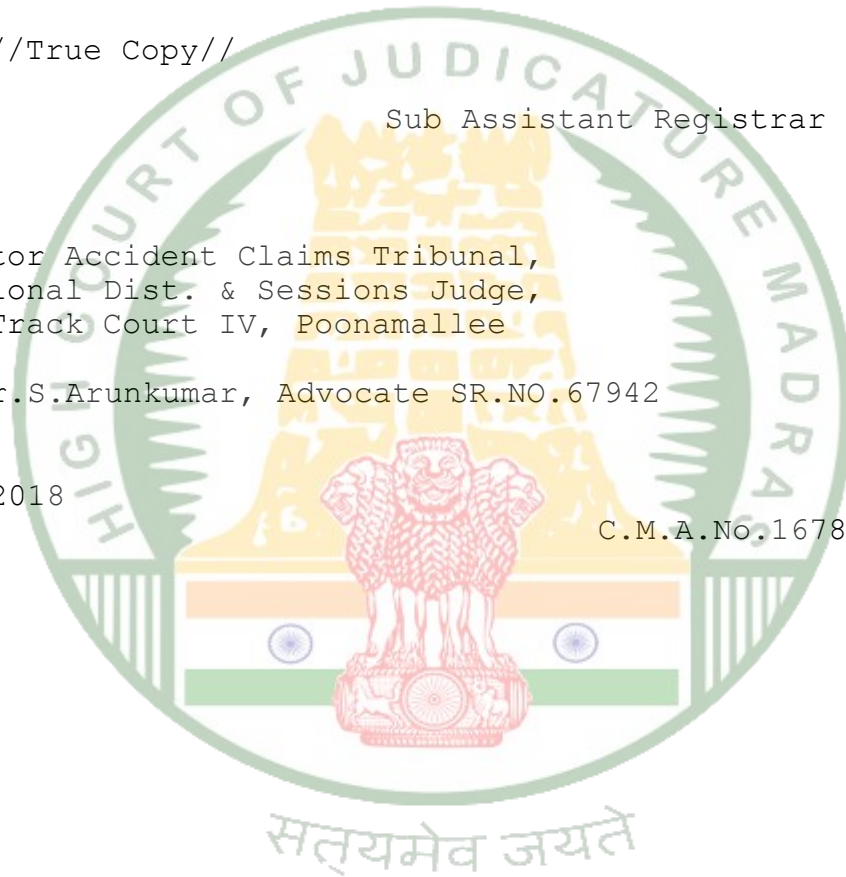
1. The Motor Accident Claims Tribunal,
Additional Dist. & Sessions Judge,
Fast Track Court IV, Poonamallee

+1cc to Mr.S.Arunkumar, Advocate SR.NO.67942

GJ(CO)

sm:29.10.2018

C.M.A.No.1678 of 2008



WEB COPY