

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.2096 of 2016

Ramu Appellant/Petitioner

-vs-

1.R.Ranganathan
(R1 remained exparte before the Tribunal,
hence his presence may be dispensed with)

2.Oriental Insurance Co. Ltd.,
No.115, Broadway Road,
Chennai 600 108. Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988 against the judgment and decree dated 09.03.2016 passed in M.A.C.T.O.P.No.5699 of 2013 on the file of the II Court of Small Causes, Chennai.

For Appellant : Mr.F.Terry Chella Raja
for Mr.V.Velu

For Respondents: Exparte (For R1)
Mr.S.Arunkumar (For R2)

J U D G M E N T

[Judgment of the Court was delivered by R.SUBRAMANIAN,J.]

The claimant who suffered injuries in the motor accident that occurred on 26.03.2013 has come forward with this appeal, seeking enhancement.

2.According to the claimant, while he was standing outside his work place, Uma Blue Metal Crusher, at Vettakarakuppam, Cheyyur Taluk, Kancheepuram District, a lorry belonging to the said company which was driven in a rash and negligent manner dashed against him, as a result of which, he had suffered injuries. Claiming that the injuries had led to permanent disability, affecting his earning capacity, the claimant sought

for a compensation of Rs.30,00,000/-. The Insurance Company resisted the claim contending that there was no road accident and the claimant was injured while he was working as a crusher in Uma Blue Metal Company. The Insurance Company also contended that the quantum of compensation sought for is on the higher side and the claimant did not suffer any permanent disability which would have a bearing on his earning capacity. The Tribunal on analysis of the evidence, found that the Insurance Company has not proved its claim regarding the factum of the accident.

3.The Tribunal rejected the evidence in the form of discharge summary in Ex.P2, wherein it is stated that the claimant suffered injuries while working in the crusher, on the ground that the same was recorded by the hospital authorities based on the information given by the persons who admitted the claimant and the claimant was not in a position to give correct details. The Tribunal chose to rely upon the First Information Report which was recorded at the hospital at around 8.00 a.m on 27.03.2013. On the quantum, the Tribunal concluded that the disability caused is in 70% and arrived at a sum of Rs.2,10,000/- at Rs.3,000/- per percentage for the disability suffered. The Tribunal did not grant any amount towards loss of future prospects. A sum of Rs.50,000/- was granted towards transportation, extra nourishment and other miscellaneous expenditures. A sum of Rs.3,41,000/- was granted towards medical expenses, Rs.24,000/- towards attender charges, Rs.50,000/- for pain, suffering and trauma. The loss of earning during the period of treatment was fixed at Rs.40,000/- and the loss of amenities was fixed at Rs.20,000/-. In all, the Tribunal granted a sum of Rs.7,35,000/- as compensation.

4.We have heard Mr.F.Terry Chella Raja, learned counsel for the appellant and Mr.S.Arun Kumar, learned counsel appearing for the Insurance Company.

5.Being an appeal by the claimant, the only question to be decided is as regards to quantum of compensation. Though Mr.F.Terry Chella Raja, learned counsel for the claimant would contend that the claimant has suffered injuries which has caused permanent disability affecting his future earning power, we do not find any evidence in support of the said contention. We are therefore unable to countenance the submission of the learned counsel regarding loss of future earning. The Tribunal has granted a sum of Rs.2,10,000/- at Rs.3,000/- per percentage for the disability suffered. We do not think that the same is on the higher side. The Tribunal has granted a sum of Rs.24,000/- towards attender charges. From the evidence on record, it is seen that the claimant was hospitalized for a period of four months. Hence, the attender charges is increased to Rs.50,000/-. Damages granted for pain and suffering at Rs.50,000/- is

increased to Rs.1,00,000/-. The loss of earning during treatment period was awarded as Rs.40,000/- for a period of four months. Considering the fact that the claimant was in-patient for a period of four months, it would be appropriate to grant loss of earning for a period of seven months. Hence, a sum of Rs.40,000/- awarded towards loss of income during the period of treatment is enhanced to Rs.70,000/-. A sum of Rs.20,000/- awarded towards loss of amenities is enhanced to Rs.25,000/-. Thus, the calculated amount of compensation is as follows:-

Award towards	Amount
Transportation, nourishing food and miscellaneous expenditure	- Rs. 50,000/-
Medical expenses	- Rs. 3,41,000/-
Attender charges	- Rs. 50,000/-
Pain, suffering and trauma	- Rs. 1,00,000/-
Disability	- Rs. 2,10,000/-
Loss of earning during period of treatment	- Rs. 70,000/-
Loss of amenities	- Rs. 25,000/-
Total	- Rs. 8,46,000/-

6.Thus, the total compensation is worked out at Rs.8,46,000/- and the same is rounded off to Rs.8,50,000/-. The Insurance Company shall deposit the enhanced award amount with 7.5% interest from the date of petition till the date of payment, less the amount, if any, already deposited, within a period of four (4) weeks from the date of receipt of a copy of this order. On such deposit, the claimant/appellant is entitled to withdraw the same.

7.In fine, the Civil Miscellaneous Appeal is partly allowed. There will be however no order as to costs in this appeal.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Motor Accidents Claims Tribunal,
VI Small Causes Court,
Chennai.

2.The Oriental Insurance Co. Ltd.,
No.115, Broadway Road,
Chennai 600 108.

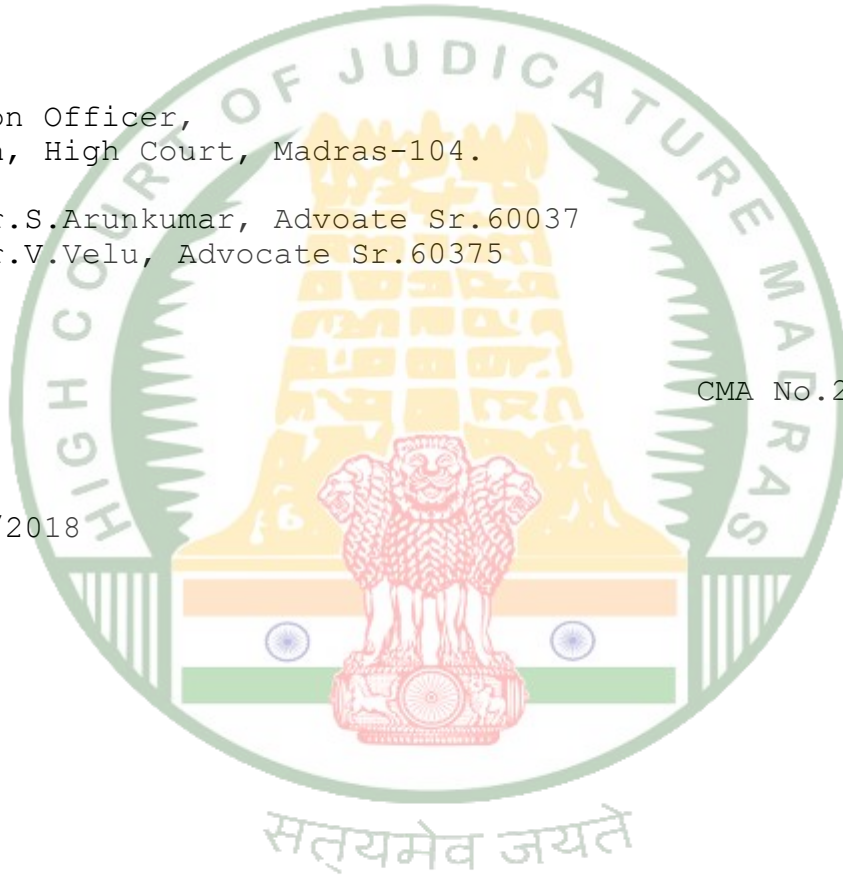
Copy to

The Section Officer,
VR Section, High Court, Madras-104.

+lcc to Mr.S.Arunkumar, Advocate Sr.60037
+lcc to Mr.V.Velu, Advocate Sr.60375

CMA No.2096 of 2016

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srg 22/10/2018



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