

IN THE HIGH COURT OF JUDICATE AT MADRAS

DATE : 14.03.2018

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**THE HON'BLE MR.JUSTICE R.SUBBIAH**  
and  
**THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU**  
**C.M.A.No.3147 of 2013**

Y.D.Ravivarma

... Appellant

Vs.

1.D.J.Anvesh

2.New India Assurance Company Ltd.,  
Division Office 710900, CDU IX Garden,  
Apartments, 68, Purasawalkam High Road,  
Chennai-600 007.

Service at:

New India Assurance Company Ltd.,  
Motor Third Party Claims Cell,  
No.45, Moore Street, 5th Floor,  
Chennai-600 001.

... Respondents

Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 25.06.2013 in M.A.C.T.O.P.No.4389 of 2011 passed by the Motor Accidents Claims Tribunal (IV Judge, Court of Small Causes), Chennai.

For Appellant : Mr.P.T.Salim Fathima

For Respondents : Mr.R.Neethe Perumal (For R2)

**JUDGMENT**

(Judgment of the Court was delivered by **R.SUBBIAH, J.,**)

Not being satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal (IV Judge, Court of Small Causes), Chennai, in and by award dated 25.06.2013 in M.A.C.T.O.P.No.4389 of 2011, the claimant has filed the present appeal seeking enhancement of compensation.

2.Since the present appeal has been filed only questioning the quantum of compensation, it is not necessary for this Court to traverse into the other aspects of the award passed by the Tribunal.

3.So far as the quantum of compensation is concerned, it is the case of the claimant that he is working as Front Office Executive in Ayur Sukha Multi Specialty Ayurvedic Vaidaalya and earning a sum of Rs.8,500/- per month. On account of the motor accident that had occurred on 29.07.2011 involving the motorcycle bearing Reg.No.TN-04-AC-2237, owned by the 1st respondent herein and insured with the 2nd respondent/Insurance Company, the appellant/claimant has sustained grade III-B compound, comminuted fracture of left femur and he took treatment as inpatient in Laksha Hospital from 30.07.2011 to 06.08.2011 and had undergone surgery open reduction and internal fixation with LCP/wound debridement was also done. Again, he was admitted in the same hospital from 08.02.2012 to 14.02.2012 for non-union with knee stiffness of grade III-B compound fracture shat of femur left and he had undergone surgery on 09.02.2012 and bone graft/quadriceps

plasty was also done to him. In order to prove the disability suffered by the claimant, on the side of the claimant one Dr.Amarnath R.Sowlee was examined as P.W.2 and Disability Certificate was marked as Ex.P.9, which would show that the claimant's fractured bones are malunited, his left leg was shortened by 2 inches, his left leg movement is restricted and he has got difficulty in riding vehicles, sitting cross legged and squatting and he can walk only with the help of stick. The Doctor-P.W.2 has assessed the disability suffered by the claimant at 30%.

4. Based on the evidence adduced on either side, the Tribunal has passed an award for a sum of Rs.6,59,240/- as compensation. The break up details of the compensation awarded by the Tribunal are as follows\_

|                       |                |
|-----------------------|----------------|
| Disability            | =Rs.3,06,000/- |
| Pain and Suffering    | =Rs. 50,000/-  |
| Medical expenses      | =Rs.1,75,240/- |
| Extra-nourishment     | =Rs. 15,000/-  |
| Transport to Hospital | =Rs. 25,000/-  |
| Damages to clothes    | =Rs. 3,000/-   |
| Attender Charges      | =Rs. 25,000/-  |
| Loss of earning       | =Rs. 35,000/-  |
| Loss of amenities     | =Rs. 25,000/-  |

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Total =Rs.6,59,240/-

(rounded off to Rs.6,59,300/-)

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Not being satisfied with the quantum of compensation, the present appeal has been filed by the appellant/claimant as stated supra.

5. Now, it is the only submission of the learned counsel for the appellant/claimant that the compensation amounts awarded by the Tribunal under different heads appear to be on the lower side. Hence, proper enhancement has to be made under all the heads.

6. Per contra, the learned counsel for the 2nd respondent/Insurance Company made his submissions supporting the award passed by the Tribunal.

7. Keeping the submissions made on either side, We have carefully gone through the entire materials available on record and We find that the Tribunal by fixing the monthly income of the claimant as Rs.5,000/- and by applying multiplier 17 based on the age of the claimant who is 23 years at the time of accident, has awarded a sum of Rs.3,06,000/- under the head of disability with proportion to 30% disability. We do not find any infirmity in the calculation made by the Tribunal in awarding the sum of Rs.3,06,000/- under the head of disability.

8. However, considering the long period of treatment undergone by the claimant, the sum of Rs.15,000/- awarded by the Tribunal for extra-nourishment appears to be on the lower side, hence, the same is hereby enhanced to Rs.25,000/-, by adding another sum of Rs.10,000/-. Similarly,

as the sum of Rs.25,000/- awarded under the head of Transportation is enhanced to Rs.30,000/-. Considering the fact that in view of the disability suffered by the claimant, he would find it difficult to carry on his day-to-day works as he was doing before the accident, the sum of Rs.25,000/- awarded by the Tribunal for loss of amenities appears to be inadequate. Hence, the same is hereby enhanced to Rs.50,000/-. Except the above said modifications, the compensation amounts awarded by the Tribunal remain unaltered as the same appear to be just and reasonable. Consequently, the total compensation amount of Rs.6,59,300/- awarded by the Tribunal is hereby modified and enhanced to Rs.7,00,000/-. The break up details of the same are as follows\_

|                       |                |
|-----------------------|----------------|
| Disability            | =Rs.3,06,000/- |
| Pain and Suffering    | =Rs. 50,000/-  |
| Medical expenses      | =Rs.1,75,240/- |
| Extra-nourishment     | =Rs. 25,000/-  |
| Transport to Hospital | =Rs. 30,000/-  |
| Damages to clothes    | =Rs. 3,000/-   |
| Attender Charges      | =Rs. 25,000/-  |
| Loss of earning       | =Rs. 35,000/-  |
| Loss of amenities     | =Rs. 50,000/-  |

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Total =Rs.6,99,240/-

(rounded off to **Rs.7,00,000/-**)

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9. In the result, the appeal is partly allowed and the total compensation amount of Rs.6,59,300/- awarded by the Tribunal is hereby modified and enhanced to Rs.7,00,000/-. The Insurance Company is directed to deposit the entire compensation amount as awarded in this appeal with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, after adjusting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the appellant/claimant is entitled to withdraw the same by making necessary application before the Tribunal. No costs.

(R.P.S.J.,) (P.D.A.J.,)

14.03.2018

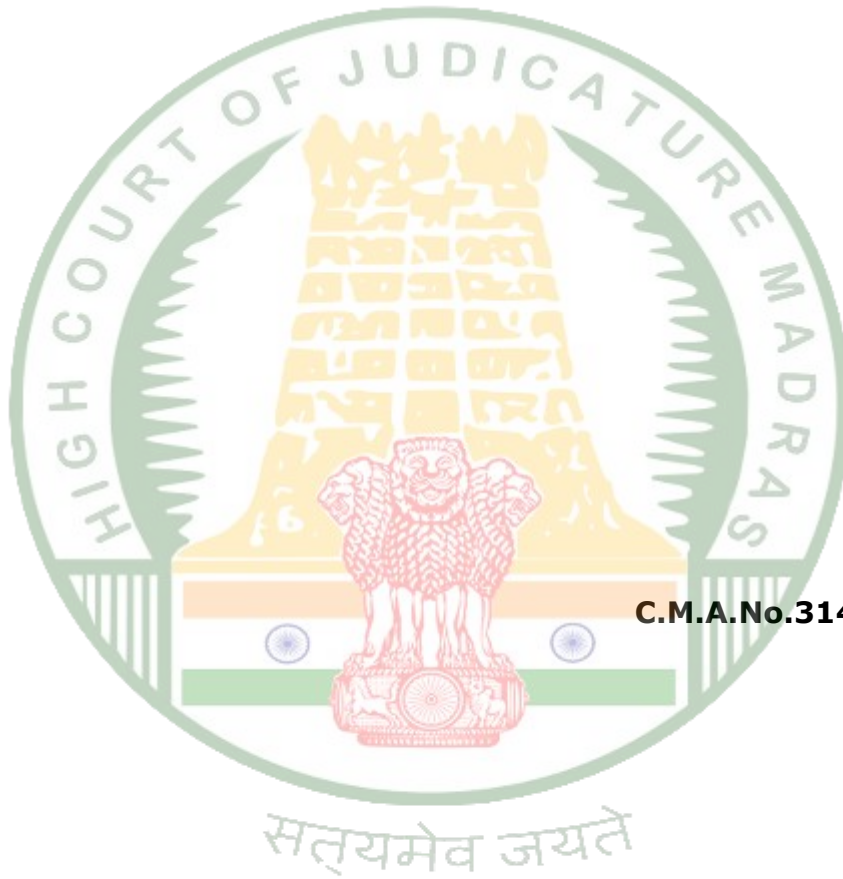
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To,  
Motor Accidents Claims Tribunal,  
(IV Judge, Court of Small Causes),  
Chennai.

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**R.SUBBIAH, J.,  
and  
P.D.AUDIKESAVALU, J.,**

(ssv)



**C.M.A.No.3147 of 2013**

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