

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.521 of 2008

Saroja ..Appellant/Claimant

Vs

1.Ramachandran

2.M.O.Hassan Kuthees Maraicar Ltd.,
Rep.by its Manager,
43, Thomas Arul Street (West),
Karaikal.

3.The New India Assurance Company Ltd.,
rep. By its Branch Manager,
Karaikal. ..Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award and decree passed in M.C.O.P. No.16 of 2006 dated 30.06.2006 on the file of the Motor Accident Claims Tribunal, Karaikal.

For Appellant : Mr.T.Susindran

For Respondents : Mr.J.Chandran [for R3]
not ready in notice
[for RR1 & 2]

J U D G M E N T
सत्यमेव जयते

The instant appeal has been filed by the claimant challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal (Karaikal) in its Award dated 30.06.2006 passed in Motor Accident Claims Tribunal, Karaikal in M.C.O.P.No.16 of 2006.

2. The brief facts leading to the filing of the instant appeal are as follows;

(i) The Appellant sustained injuries as a result of an accident on 07.11.2005 caused by a bus bearing Registration No.PY-02/C-8118 owned by the second respondent and insured with the third respondent. The Appellant preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.16 of 2006 seeking a compensation of Rs.2,25,000/- which was restricted to Rs.2,00,000/-.

(ii) The Motor Accident Claims Tribunal by its Award dated 30.06.2006 in M.C.O.P.No.16 of 2006 directed the third respondent/Insurance Company to pay the Appellant a sum of Rs.14,500/- together with interest @ 7.5% per annum from the date of claim till the date of realization.

3. Aggrieved by the quantum of compensation awarded by the Tribunal, the instant Appeal has been filed by the claimant seeking enhancement of the compensation.

4. Heard, T.Susindran, learned counsel for the Appellant and Mr.J.Chandran, learned counsel for the third respondent.

5. According to the learned counsel for the Appellant, the Tribunal has erroneously without any basis assessed the disability of the Appellant at 7% even though a disability certificate was produced by the Appellant before the Tribunal, which was marked as Ex.P.8, which discloses that the Appellant has suffered 15% disability. According to the learned counsel, the Appellant sustained fracture of his toe as well as lost two tooth, as a result of the accident. Further, she was a teacher at the time of the accident and due to the injuries, the Appellant could not do her regular work. The learned counsel, after drawing the attention of this Court to the award passed by the Tribunal, submitted that without any basis the Tribunal has awarded a meagre compensation of Rs.14,500/- only, without considering the actual disability suffered by the Appellant.

6. Per contra, the learned counsel for the second respondent would submit that the compensation awarded by the Tribunal is a just compensation considering the fact that the injuries sustained by the Appellant are only a simple injuries and not grievous injuries.

7. This Court, after considering 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 third respondent before the Tribunal.

(b) The Appellant has produced a disability certificate which was marked as Ex.P.8, which would reveal that the Appellant suffered 15% disability. Without any basis, the Tribunal has arbitrarily fixed the disability at 7%.

(c) The Appellant was a school teacher and was aged 50 years at the time of the accident. She was also unable to attend to her regular work for a period of time as a result of accident. No contra evidence was produced by the third respondent to dispute the claim of the Appellant that she was unable to perform her regular work for a period of time as a result of the injuries sustained by her.

8. Considering the above facts, this Court is of the considered view that the compensation awarded by the Tribunal under the head of disability appears to be on the lower side and a higher compensation towards disability ought to have been awarded by the Tribunal. Hence, by fixing the disability suffered by the appellant at 15% as per the disability certificate, a sum of Rs.30,000/- is hereby awarded at the rate of Rs.2,000/- per percentage, which would be a just compensation towards disability. Accordingly, the sum of Rs.7,000/- awarded by the Tribunal towards disability is hereby modified and enhanced to Rs.30,000/-. Except for this modification, the compensation awarded by the Tribunal under other heads remain unaltered as they seem to be just and proper.

9. Consequently, the total compensation of Rs.14,500/- awarded by the Tribunal is hereby modified and enhanced to Rs.37,500/-. The break up details of the modified/enhanced compensation are as follows:-

Sl.No	Heads	Amount granted by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	Disability (15 x 2000)	7,000.00	30,000.00
2	Pain and sufferings	5,000.00	5,000.00
3	Extra-nourishment	1,000.00	1,000.00
4	Damages to cloths	1,000.00	1,000.00
5	Transportation	500.00	500.00
	Total	14,500.00	37,500.00

10. In the result, the Civil Miscellaneous Appeal is Partly Allowed without costs. The award amount of Rs.14,500/- passed by the Tribunal by the impugned Award dated 30.06.2006 in M.C.O.P.No.16 of 2006, is hereby enhanced to Rs.37,500/-. The second respondent/Insurance Company is directed to deposit the modified Award amount of Rs.37,500/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, after deducting the amount if any already deposited, to the credit of M.C.O.P.No.16 of 2006 on the file of the Motor Accident

Claims Tribunal, Karaikal, within a period of four weeks from the date of receipt of a copy of the order. On such deposit being made, the Appellant is permitted to withdraw the same, along with accrued interest by filing an appropriate application.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

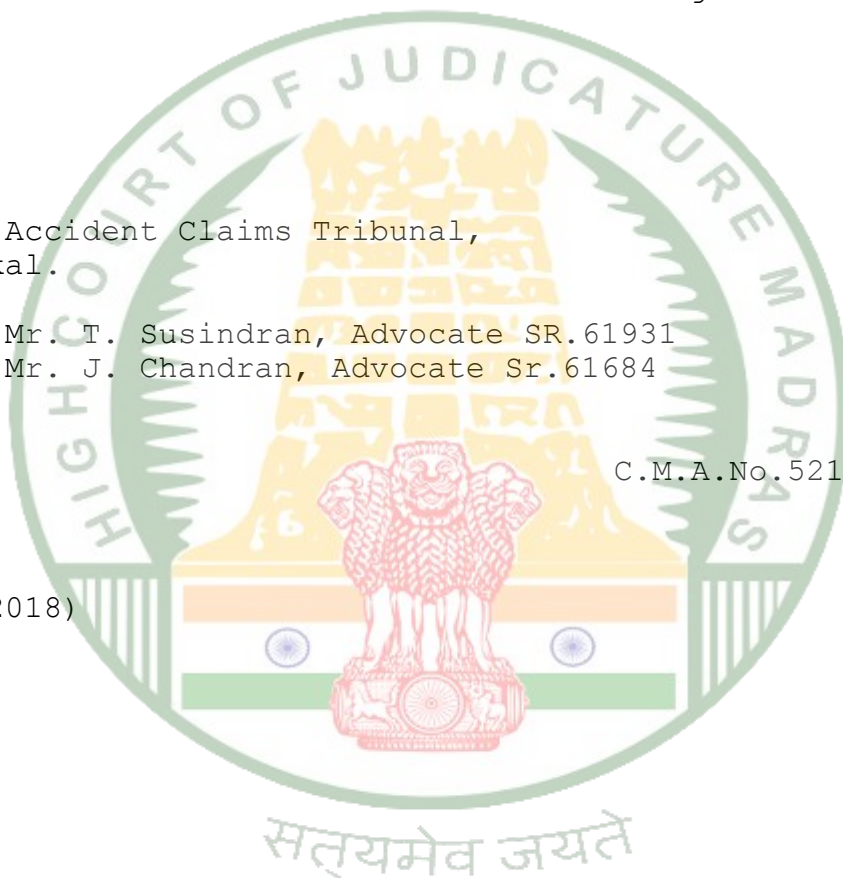
The Motor Accident Claims Tribunal,
Karaikal.

+ 1 cc to Mr. T. Susindran, Advocate SR.61931

+ 1 cc to Mr. J. Chandran, Advocate Sr.61684

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GJ(CO)
EU(08/11/2018)



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