

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Order	Date of Pronouncing the Order
07.12.2017	11.04.2018

Coram :

The Honourable Mrs. Justice S. RAMATHILAGAM

C.M.A.No. 3470 of 2006

Mr. C. Bhavanesan
S/o. Chinnappa

....Appellant/Petitioner

Versus

1. Mr. M. S. Khaleel Ahamed

2. M/s. New India Assurance Company Limited,
C/o. Motor Third Party Claims Office,
No.43, Moore Street, Chennai - 1.

...Respondents/Respondents

This Civil Miscellaneous Appeal is filed against the judgment and decree made in M.C.O.P.No.3139 of 2001 on the file of Motor Accident Claims Tribunal, Additional District Judge, V Fast Track Court, Chennai dated 20.03.2006.

For Appellant :Mr.T.G.Balachandran
For Respondent -2 :Mr.K. Vinod
R1 :Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the judgment and decree made in M.C.O.P.No.3139 of 2001 on the file of the Motor Accident Claims Tribunal, Additional District Judge, V Fast Track Court, Chennai.

2. The brief facts of the case is that on 31.05.2001, around 17:00 hours, when the appellant was driving the Auto-Rickshaw from East to West in the Sterling road, the lorry bearing Registration No.T.N.27.X.0599 came in the opposite direction and hit the Auto-Rickshaw and caused injuries on the occupants. The injured was given treatment at Kilpauk Medical College Hospital (KMC) and injuries sustained by him are a cut injury on the right side eyebrow, injuries on the knees and his period of treatment is 15 days and further treatment was taken by the injured person at a Private Hospital and he was claiming

a sum of Rs.80,000/- (Rupees Eighty Thousand) as a compensation and the Tribunal after examination of the petitioner and the respondents and also based on the documents filed before the it, the Tribunal has awarded a sum of Rs.13,000/- to the claimant. The Tribunal awarded a sum of Rs.5,000/- for pain and suffering, Rs.5,000/- for Medical and incidental expenses, for the loss of income for the period 31.05.2001 to 31.08.2001, the appellant claimed a sum of Rs.11,250/- but the Tribunal fixed his notional income as Rs.3,000/- per month and awarded a sum of Rs.3,000/- only under the head of loss of income and in total, a sum of Rs.13,000/- was awarded by the Tribunal as a compensation to the appellant. The amount awarded by the Tribunal under various heads is hereinbelow:

i) Loss of Earning	=	Rs.3,000/-
ii) Pain and Suffering	=	Rs.5,000/-
iii) Medical and Incidental Charges	=	Rs.5,000/-
Total	=	
Rs.13,000/-		

3. Against the award passed by the Tribunal, the claimant /appellant herein filed this appeal on the grounds of quantum as the claim is Rs.80,000/- and the award is Rs.13,000/- only, which is very low and also the nature of injury, the period of treatment and the disability certified by the Doctor are not considered by the Tribunal.

4. Heard both sides and perused the records.

5. (i) While considering the disability aspect of the injured appellant, the injury sustained by the appellant is on his head. P.W.2, Doctor has been examined before the Tribunal who issued the Disability Certificate by stating that the injured has 30% of disability. Ex.P.3 also reveals that skin grafting was done to the appellant. The date of admission and the date of discharge is mentioned as 31.05.2001 and 14.06.2001. It is also the evidence of P.W.1, the injured appellant sustained severe injuries on his head and skin grafting was done.

(ii) The Tribunal has viewed that there is no proper endorsement made in the discharge summary and the doctor also examined the injured person in the year 2006 assessed the disability as 30%, when the accident occurred in the year 2001 and there is no relevant document filed to prove the nature of the injury and the medical expenses incurred by the claimant. On perusal of Ex.P.3, it is observed that skin grafting was done to

the appellant and he was also under treatment from 31.05.2001 and 14.06.2001. Hence, it is observed that the injured has sustained severe injuries and skin grafting was also done to him.

iii) When it is observed that the occupation of the injured person is driving and the loss of earning assessed by the Tribunal at Rs.3,000/- p.m is now enhanced to Rs.5,000/-. Medical expenses that could have been incurred by the claimant regarding the treatment that was given to him has to be properly assessed. Hence, for the medical and incidental charges awarded by the Tribunal at Rs.5000/- is enhanced to Rs.10,000/-. In respect of future medical expenses, a sum of Rs.5,000/- is a proper one and that has to be awarded. For pain and suffering, the award by the Tribunal has to be properly assessed and enhanced from Rs.5,000/- to Rs.10,000/-. In view of the above, the appeal is allowed and the award passed by the Tribunal is enhanced from Rs.13,000/- to Rs.30,000/-.

11. In the result, the appeal is allowed and the award passed by the Tribunal is enhanced from Rs.13,000/- to Rs.30,000/-. No costs. The Insurance Company/ second respondent herein is directed to deposit the entire amount of compensation, as enhanced by this Court, less the amount, if any, already deposited, along with interest @ 7.5% from the date of petition till the date of deposit to the credit of MCOP No.3139 of 2001 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimants/appellants, as per the ratio of apportionment ordered by the Tribunal, through RTGS, within a period of two weeks thereafter. Necessary court fee, if any, shall be paid on the enhanced compensation amount by the claimants herein before receiving the copy of the judgment.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

mrr/vv

To

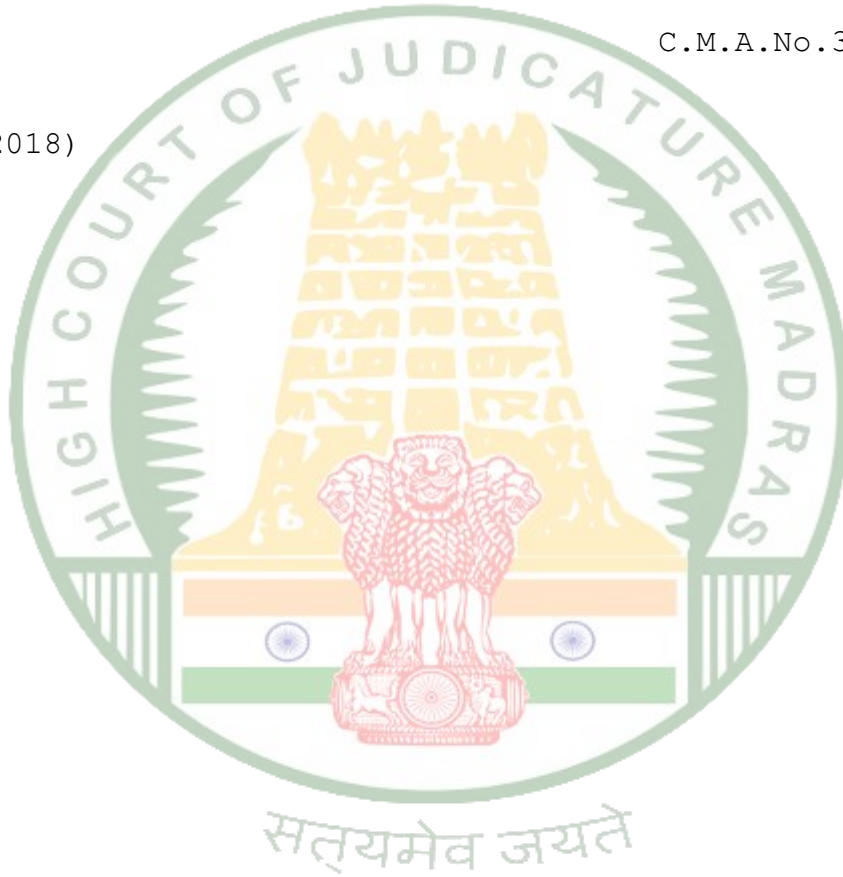
1. The Additional District Judge,
Fast Track Court No.V, (Motor Accident Claims Tribunal)
Chennai.

Copy to
The Section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.T.G. Balachandran, Advocate sr 29242.
+1 CC to Mr.K. Vinod, Advocate sr 26850.

C.M.A.No.3470 of 2006

CA(CO)
SP(31/05/2018)



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