

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.Nos.3450 to 3452 of 2017

and

C.M.P.Nos.13909 and 13910 of 2017

S.Rajasekaran .. Appellant in CMA.No.3450 of 2017

R.Jayabharathi .. Appellant in C.M.A.No.3451 of 2017

R.Sangeetha .. Appellant in C.M.A.No.3452 of 2017

vs

1.S.Raja Mohammed

2.National Insurance Company Limited,
No.169, Second Floor,
Anna Salai,
Chennai 600 002. .. Respondents in all C.M.As.

These Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act to set aside the fair and decretal order dated 02.03.2016 made in M.C.O.P.Nos.1088 to 1090 of 2012 on the file of the Accident Claims Tribunal (V Court of Small Causes) Chennai.

For Appellants : Mr.V.G.Suresh kumar
(In all C.M.As.)

For R1 : Ex-parte

For R2 : Mr.D.Bhaskaran

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by C.SARAVANAN,J.)

By this common order of all the three appeals being disposed.

2. The above Civil Miscellaneous Appeals arise out of common fair and separate decretal order passed in M.C.O.P.Nos.1088 to 1090 of 2016.

3. The Motor Accident Claims Tribunal by the aforesaid order disposed 4 different O.Ps filed by the respective appellants.

4. The appellants in the respective appeals which are the claimants in three of the O.Ps.have sought for enhancement of the compensation as detailed below:

S.No	Name of the Appellants	M.C.O.P.No.	C.M.A.No.	Amount Claimed before the Tribunal
1	S.Rajasekaran	1088 of 2012	3450 of 2017	Rs.30,00,000/-
2	R.Jayabharathi	1089 of 2012	3451 of 2017	Rs.16,00,000/-
3	R.Sangeetha	1090 of 2012	3452 of 2017	Rs.30,00,000/-

5. The appellants along with the deceased Shanthi were travelling in a Maruti Alto car bearing Registration No.TN 58 R 5059 from Madurai to Chennai when they met with an accident on 03.07.2011 at 4.45 p.m. At that time, a lorry bearing Registration No.TN 57 AC 3358, belonged to the first respondent, driven by its driver in a rash and negligent manner and hit the said car. Due to the impact, the deceased Shanthi sustained fatal injuries and died on the spot while the other appellants sustained grievous injuries. Hence, The Tribunal has awarded a sum of Rs.4,25,000, Rs.5,05,500 and 3,61,600 respectively to the appellants.

6. Aggrieved by the same, the appellants have preferred the present appeals.

7. The appellants have questioned the quantum of compensation awarded in the present appeals. Therefore we are not delineating the facts in details.

8. It is the case of the appellants that though P.W.4/Doctor was examined before the Tribuna, he has deposed that the appellants viz., P.W.1 to P.W.3 had sustained the following injuries, the Tribunal has awarded a very meagre amount. The nature of injuries are as follows:-

S.No	Name of the Appellant	Injuries
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1	Rajasekaran	Undisplaced fracture arch of atlas left side fracture ribs 1 to 4 (R) fracture sternum, comminuted subtrochanteric fracture left side and fracture lateral tibial condyle left side.
2	Jayabharathi	Lefort 1 bilateral, lefort II on left side with soft tissue injury of face
3	Sangeetha	frontal bone compound fracture with bifrontal contusion, right humerus compound fracture, left frontal wound exploration with head injury to the right upper limb as well as fracture shaft left humerus head injury

9. As far as the appellant viz., Rajasekaran in C.M.A.No.3450 of 2016 is concerned, the appellant had claimed a sum of Rs.30,00,000/- while the Tribunal has awarded a sum of Rs.4,25,000/-. The amount awarded needs to be slightly tweaked in view of the injuries explained above to award just compensation. Consequently, the amount of compensation awarded under various heads are modified as follows:-

S.No .	Heads	Amount Awarded by the Tribunal	Amount Awarded by this Court
1	Disability	Rs.1,20,000	Rs.1,50,000
2	Transport and Extra nourishment	Rs. 25,000	Rs. 50,000
3	Attender Charges	Rs. 3,000	Rs. 30,000
4	Medical Expenses	Rs.92,964.50	Rs. 92,000
5	Future medical expenses	Rs.75,000	Rs. 2,50,000
6	Loss of earning during treatment	--	Rs. 30,000
7	Pain and sufferings	Rs.50,000	Rs. 100,000
8	Loss of amenities	Rs.60,000	Rs.1,50,000
	Total	Rs.4,25,054.50 rounded to Rs.4,25,000/-	Rs.8,52,000

10. As far as the appellant viz., Jayabharathi in

C.M.A.No.3451 of 2017 is concerned , the appellant had claimed a sum of Rs.16,00,000/- the Tribunal has awarded a sum of Rs.5,05,500/- together with interest at the rate of 7.5% p.a. Therefore, the amount of compensation awarded under various heads are modified as follows:-

S.No .	Heads	Awarded by the Tribunal	Awarded by this Court
1	Disability	Rs.90,000	Rs.1,50,000
2	Transport and Extra nourishment	Rs.20,000	Rs. 40,000
3	Attender Charges	Rs. 3,000	Rs. 20,000
4	Medical Expenses	Rs.2,92,306	Rs.2,92,306
5	Future medical expenses	--	Rs. 50,000
6	Loss of earning during treatment	--	Rs. 25,000
7	Pain and sufferings	Rs.50,000	Rs. 50,000
8	Loss of amenities	Rs.60,000	Rs.1,00,000
	Total	Rs.5,05,306.53/- rounded to Rs.5,05,500.00/-	Rs.7,27,306

11. As far as the appellant viz., Sangeetha in C.M.A.No.3452 of 2017 is concerned, the appellant had claimed a sum of Rs.30,00,000/-, the Tribunal has awarded a sum of Rs.3,61,500/- together with interest at the rate of 7.5% p.a. Therefore, the amount of compensation awarded under various heads are modified as follows:-

S.No .	Heads	Awarded by the Tribunal	Awarded by this Court
1	Disability	Rs.1,20,000	Rs.1,50,000
2	Transport and Extra nourishment	Rs. 20,000	Rs. 40,000
3	Attender Charges	Rs. 4,000	Rs. 20,000
4	Medical Expenses	Rs.1,07,346.23	Rs. 92,000
5	Future medical expenses	Rs.75,000	Rs.1,07,000
6	Loss of earning during treatment	--	Rs. 25,000

7	Pain and sufferings	Rs.50,000	Rs. 50,000
8	Loss of amenities	Rs.60,000	Rs.1,00,000
	Total	Rs.3,61,346.23 rounded to Rs.43,61,400/-	Rs.5,32,000

12. Considering the nature of injuries sustained by the appellants, the award amount is enhanced as above. Accordingly, the impugned order is modified and ordered accordingly with the following directions:

C.M.A.No.3450 of 2017

i) The second respondent/Insurance Company is directed to deposit a sum of Rs.8,52,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this order.

ii) On such deposit, the appellant-claimant is permitted to withdraw the above said amount after adjusting the amount if any already withdrawn.

C.M.A.No.3451 of 2017

i) The second respondent/Insurance Company is directed to deposit a sum of Rs.7,27,306/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this order.

ii) On such deposit, the appellant-claimant is permitted to withdraw the above said amount after adjusting the amount if any already withdrawn.

C.M.A.No.3452 of 2017

i) The second respondent/Insurance Company is directed to deposit a sum of Rs.5,32,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, less the amount already deposited if any, within a period of four weeks from the date of receipt

of a copy of this order.

ii) On such deposit, the appellant-claimant is permitted to withdraw the above said amount after adjusting the amount if any already withdrawn.

13. All the three Civil Miscellaneous Appeals are partly allowed with the above directions. No cost. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kkd

To

The Motor Accident Claims Tribunal ,
(V Court of Small Causes) Chennai.

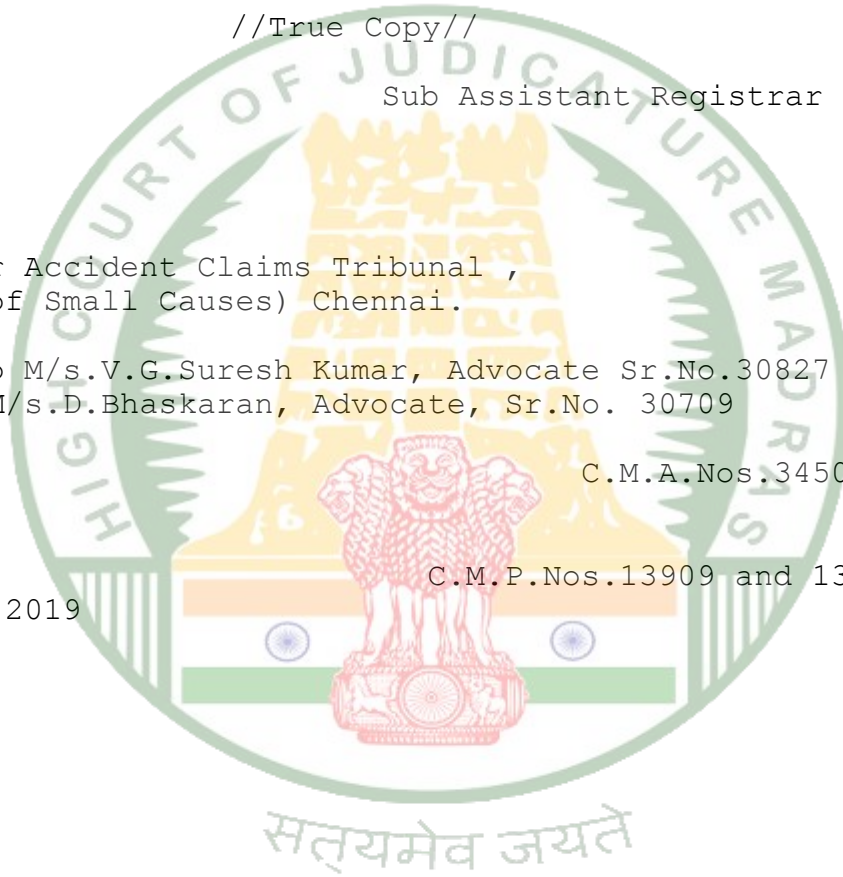
+3 cc's to M/s.V.G.Suresh Kumar, Advocate Sr.No.30827 to 30829

+1 cc to M/s.D.Bhaskaran, Advocate, Sr.No. 30709

C.M.A.Nos.3450 to 3452 of
2017

and
C.M.P.Nos.13909 and 13910 of 2017

CSL/02.05.2019



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