

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.2835 of 2016

Paranthaman

...Appellant

/versus/

1. Lakshmi

2. United India Insurance Co. Ltd
3rd Party Motor Claims Cell,
No.73-C, M.T.H.Road,
Ambattur,
Chennai - 600 053.

3. Yokeswaran

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act pleased to enhance the award dated 11.01.2016 and made in M.A.C.T.O.P.No.63 of 2008 on the file of the Motor Accident Claims Tribunal (In the Court of Subordinate Judge, Ponneri).

For Appellant

: Mr.A.Subadra for M.Malar

For Respondents

: Mr.S.Arunkumar for R2
R1 & R3 - Exparte

J U D G M E N T

Heard the counsel for the appellant and the respondent.

2. This appeal is preferred by the claimant seeking enhancement of compensation being aggrieved by the compensation awarded to him for the injury sustained in the Motor accident occurred on 31.05.2007.

3. The brief facts of the case is that on 31.05.2007 at about 17.30 hours when the claimant was riding his Motor cycle bearing Reg.No.TN-20-AD-8593 proceeding from Gengadikuppam to Jannappanchathiram junction, an auto bearing Reg.No.TN-20-AD-5682, driven by its driver in a rash and negligent manner hit the claimant from the opposite direction. In the said accident, the claimant sustained multiple fracture injury. Being a mason by profession, he lost his income during the treatment for around 185 days involving three surgeries and amputation of his left index finger. The Tribunal on considering the disability certificate given by the doctor and other medical records, awarded compensation of Rs.2,81,800/- under the following heads;

Pain and Sufferings	Rs.20,000/-
Loss of income for 8 months	Rs.24,000/-
Medical Expenses	Rs.72,800/-
Rich and nutritious Food	Rs.5,000/-
Transport allowances	Rs.10,000/-
Permanent disability	Rs.1,51,000/-
Total	Rs.2,81,800/-

4. The first contention of the appellant herein is that the Doctor has assessed disability as 15% and for amputation of Index finger, he has assessed 30% permanent disability. The Tribunal ought to have applied multiplier taking into account the daily income of the claimant which was about Rs.220/- per day, and hence the award for disability is not sufficient and the same has to be interfered and enhanced.

5. The learned counsel appearing for the respondent/Insurance Company would submit that the claimant suffered traumatic amputation of index finger, right hand, fracture in right knee, grievous injuries all over the body and hence, the assessment of the Doctor who did treat the claimant cannot be relied upon. He would also submit that when the claimant has suffered amputation of left Index

finger, the Doctor has deposed that the claimant suffered amputaion of right index finger and fixed 30% disability for the said aggravation. As per the schedule under Workmen Compensation Act for amputation of index finger, the disability is only 14%.

6. I have considered the rival submissions of both the counsels and perused the materials available on record.

7. The petitioner herein claims to be mason by profession, it is seen that in the accident he has suffered amputation of Index right finger and he had been admitted in the Hospital as an inpatient intermediately for nearly six months. The medical records like discharge bill have been marked as Ex.P4 to Ex.P8 & Ex.P14 which indicates that the injuries suffered by the claimant are grievous in nature and he was unable to return to work for nearly 8 months and he has now lost his Index finger which is in the schedule of injuries.

8. In view of the above fact that, this Court is of the opinion that the award of the Tribunal requires interference and enhancement. Hence the award is enhanced as follows;

Loss of earning capacity due to the functional disability [(6000 + 2400 X 20%) X 12X17]	Rs.3,42,720/-
Pain and Sufferings	Rs.20,000/-
Loss of income for 8 months (6000 x 8)	Rs.48,000
Medical Expenses	Rs.72,800/-
Rich and Nutritious Food	Rs.5,000/-
Transport allowances	Rs.10,000/-
Attender Charges	Rs.12,000/-
Total	Rs.5,10,520/-

9. The said award amount of Rs.5,10,520/- shall be paid together with interest at 7.5% p.a., from the date of petition i.e., 08.01.2008 till the date of realisation. On such deposit the claimant is entitled to withdraw the same on appropriate application.

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10. Accordingly, this Civil Miscellaneous Appeal is allowed. No costs.

06.11.2020

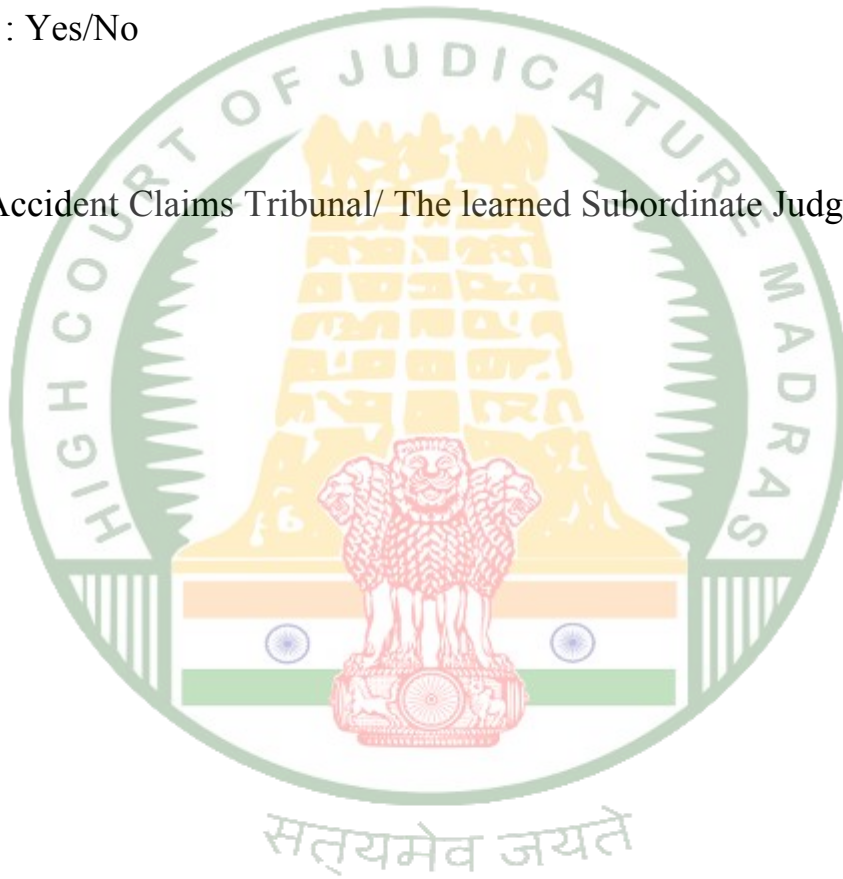
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Index : Yes/No

Internet : Yes/No

To

The Motor Accident Claims Tribunal/ The learned Subordinate Judge,
Ponneri.



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Dr.G.JAYACHANDRAN,J.

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