

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No.4096 of 2019

Karthikeyan

... Appellant

Vs.

1.Poonkodi

2.Royal Sundaram Alliance

Insurance Company Ltd.,
D.No.45 & 46, M.Whites Road,
Chennai - 600 014.

... Respondents

PRAYER : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 20.11.2013 passed in M.C.O.P.No.703 of 2011 on the file of Principal District Judge and Motor Accidents Claims Tribunal, Namakkal.

For Appellant : Mr.C.Thangaraju

For Respondents : Mr.N.Vijayaraghavan for
M/s.M.B.Gopalan Associates
for R2

JUDGMENT

(Delivered by M.M.SUNDRESH.,J)

This appeal is preferred by the claimant, who is injured in the accident that occurred on 24.01.2007, seeking enhanced compensation over and above the award granted for a sum of Rs.9,10,400/-. The claim was made for a sum of Rs.15,00,000/-. The Tribunal fixed the disability at 70%. Admittedly, the appellant got his left knee amputated. He was also working as a Cleaner.

2. The learned counsel appearing for the appellant would submit that the income has been wrongly fixed by the Tribunal at Rs.6,000/- per month. For the functional disability, higher percentage ought to have been adopted. Apart from the same, no amount has been granted towards future prospects by the Tribunal. Thus, the award passed by the Tribunal requires interference.

3. The learned counsel appearing for the second respondent submitted that even according to the appellant, the income was only Rs.5,000/- per month. However, it is a fact that no amount has been awarded towards the future prospects especially when the appellant suffered amputation.

4. We are not concerned with the liability. The fact that the appellant has suffered severe injuries resulting in left knee amputation is admitted. He was 18 years at that point of time and working as a Cleaner. By virtue of this accident, he can no longer work in the said capacity. Therefore, we are fixing the functional disability at 100%. This we do so considering the peculiar facts of the case as we are aware of the fact that normally disability has to be fixed between 40 and 50%. However, we find that the Tribunal has fixed income at Rs.6,000/- per month contrary to the very pleadings of the appellant himself. In such view of the matter, we are inclined to fix the monthly income at Rs.5,000/-. Similarly, the Tribunal has adopted the multiplier '16' as against '18'. Towards the future prospects, no amount has been awarded by the Tribunal. Thus, we are adding 40% towards the future prospects. Accordingly, the loss of earning capacity has been arrived at Rs.15,12,000/- [(Rs.7,000 x 12 x 18 x 100%)]. For the other conventional heads such as for extra nourishment, transportation, pain and suffering and for loss of amenities, sums of Rs.30,000/-, Rs.20,000/-, Rs.60,000/-, Rs.40,000/- and Rs.60,000/- have been awarded respectively as compensation. Thus, the total compensation is arrived at Rs.17,22,000/- which we are rounding off to Rs.17,25,000/- with 7.5% interest from the date of petition till the date of deposit.

5. The respondent/Insurance Company is directed to deposit the enhanced compensation amount as awarded by this Court along with proportionate interest, less the amount, if any, already deposited to the credit of M.C.O.P.No.703 of 2011 on the file of Principal District Judge and Motor Accidents Claims Tribunal, Namakkal within a period of eight weeks from the date of receipt of a copy of the judgment.

6. We also direct the Tribunal to transfer the same by way of RTGS to the claimant's bank account within a period of three weeks from the date of deposit of the award amount. On such

transfer, the claimant is entitled to withdraw the same.

7. In view of the above, the Civil Miscellaneous Appeal stands allowed. No Costs.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

ssm

To

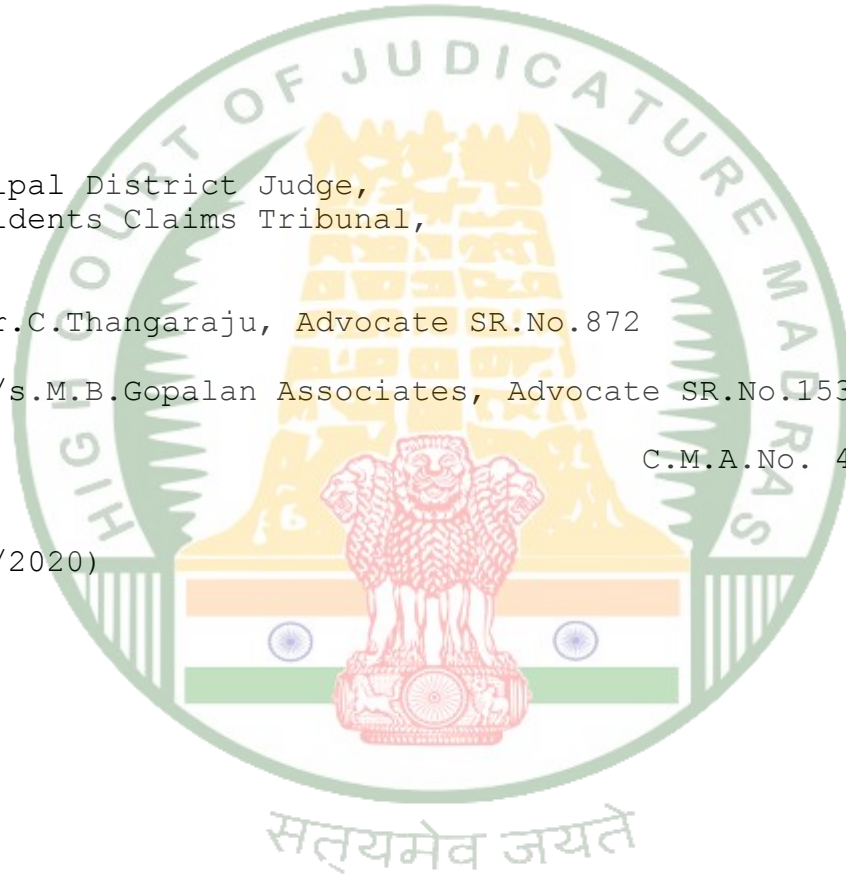
The Principal District Judge,
Motor Accidents Claims Tribunal,
Namakkal.

+3cc to Mr.C.Thangaraju, Advocate SR.No.872

+1cc to M/s.M.B.Gopalan Associates, Advocate SR.No.1535

C.M.A.No. 4096 of 2019

KS (CO)
GMY (21/07/2020)



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