



WEB COPY



C.M.A.No.2899 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.2899 of 2014

Ramesh

... Appellant

VS.

1.C.Karunanithi

2.Shriram General Insurance Company Limited,
II Floor, No.66, Thirumalai Pillai Road,
T.Nagar,
Chennai-600 017.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 06.07.2013 and made in M.A.C.T.O.P.No.2548 of 2011 on the file of the Motor Accident Claims Tribunal (In the Court of VI Small Causes) Chennai.

For Appellant : Mrs.A.Subadra
For Respondents : R1- Served – No Appearance
Mr.S.Dhakshnamoorthy [R2]

JUDGMENT

The claimant is the appellant before this Court seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal,



C.M.A.No.2899 of 2014

(Court of VI Small Causes) Chennai in M.A.C.T.O.P.No.2548 of 2011.

WEB COPY

2. The claimants sought to have the award be enhanced on the ground that the appellant/claimant had been hospitalised for over 10 days. The Tribunal had fastened the negligence on the appellant/claimant as well stating that the claimant had not taken due precaution before crossing the road. The appellant/claimant would question this finding of the Tribunal.

3. The learned counsel for the appellant/claimant would submit that the claimant had suffered fractures to his hip and leg and an abdomen injury, head injury and multiple injuries all over the body.

4. As regards the fastening of contributory negligence on the appellant/claimant the same has been done only on presumptions. It is needless to state that a pedestrian has the right of way and vehicles have to stop to allow a pedestrian to cross the road. Therefore, the finding of the Tribunal below fastening liability on the appellant is set aside.

5. The medical records would show that the appellant/claimant had



C.M.A.No.2899 of 2014

suffered fracture in the hip, leg and there has been blunt of injuries, for that

he has undergone several procedures. The appellant/claimant was employed

as a mason, considering the length of time that he has been in hospital and

taking into consideration the injuries sustained by him, the amount awarded

under the head of disability of percentage shall be enhanced at the rate of

Rs.2000/- to Rs.3000/- per percentage. The Doctor has assessed the

disability @ 55%, therefore, under the head of disability, Rs.3000/- per

percentage would work out to a sum of Rs.1,65,000/- (Rs.3000/- X 55). The

appellant/claimant who was hospitalised for over 10 days is entitled extra

amount under the head of attender charges, therefore, amount granted under

this head is enhanced from Rs.10,000/- to Rs.25,000/- and amount granted

under the head of Extra Nourishment and Damage to clothes is enhanced to

Rs.25,000/-. That apart, considering the long hospitalisation and the nature

of injuries, amount granted under the head of Pain and Suffering is

enhanced to Rs.50,000/-. In all other aspects, the award of the Tribunal

appears to be very reasonable and I see no reason to interfere with the same.

Therefore, the Compensation awarded by the Tribunal is reworked as

below:



C.M.A.No.2899 of 2014

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
1	Loss of Income for 6 months	Rs. 27,000/-	Rs. 27,000/-	Confirmed
2	Transportation	Rs. 5,000/-	Rs. 5,000/-	Confirmed
3	Extra Nourishment & Damage to clothes	Rs. 20,000/-	Rs. 25,000/-	Enhanced
4	Medical Expenses	Rs. 20,000/-	Rs. 20,000/-	Confirmed
5	Attender Charges	Rs. 10,000/-	Rs. 25,000/-	Enhanced
6	Pain and Suffering	Rs. 30,000/-	Rs. 50,000/-	Enhanced
7	Disability	Rs. 1,10,000/-	Rs. 1,65,000/-	Enhanced
	TOTAL	Rs. 2,22,000/-	Rs. 3,17,000/-	
		Less 25% contributory negligence. 75% of Rs. 2,22,000/- = Rs.1,66,500/-	Rs.3,17,000/- (contributory negligence is set aside.)	

6. In the result, this Civil Miscellaneous Appeal is allowed and the compensation of Rs.1,66,500/- awarded by the Tribunal is hereby Enhanced to a sum of **Rs.3,17,000/-**. Therefore, the 2nd respondent / Insurance Company is directed to deposit the enhanced amount of **Rs.3,17,000/-** to the credit of M.A.C.T.O.P.No.2548 of 2011 on the file of the Motor



C.M.A.No.2899 of 2014

Accident Claims Tribunal (In the Court of VI Small Causes) Chennai,

together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs, less, the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court, as apportioned by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimant. No costs.

14.10.2022

Index : Yes/No

Speaking / Non-speaking order

ssn



WEB COPY



C.M.A.No.2899 of 2014

P.T.ASHA, J.,

ssn

To:

1. The Motor Accident Claims Tribunal,
VI Judge, Small Causes Court,
Chennai.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

C.M.A.No.2899 of 2014

14.10.2022