

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

C.M.A.No.1785 of 2011

and

M.P.No.1 of 2011

The Oriental Insurance Co. Ltd.,
Bangalore.

.... Appellant/Respondent-II

vs.

1.Thiru.Munirathna Respondent-I/Petitioner-I

2.Tmt.Solai Respondent-II/Respondent-I

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 12.10.2007 passed in M.C.O.P.No.90 of 2006 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Hosur.

For Appellant : Mr.J.Chandran

For Respondents: No appearance

J U D G M E N T

The Oriental Insurance Co. Ltd. is on appeal challenging the award dated 12.10.2007 passed in M.C.O.P.No.90 of 2006 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Hosur.

2. It is a case of injury. On 17.06.2005 at about 8.30 a.m., when the injured claimant was walking to the left extreme end, near Shoolagiri EB Office, a Hero Honda Motorcycle bearing registration number KA-03-Y-1334 driven by the 1st respondent came in a rash and negligent manner and dashed against the claimant. As a result, the claimant sustained grievous injuries. Thereafter, the claimant was admitted to the Government Hospital at Hosur for treatment. Hence, the claimant has filed a claim for compensation in a sum of Rs.5,00,000/-. According to the claimant, he was doing business in picking old papers and sell them and was earning a sum of Rs.3,000/- per month.

3. In support of the claim, the claimant was examined as P.W.1 and Dr.T.V.Gandhi, who had given the disability certificate was examined as P.W.2. Exs.P-1 to P-8 were marked, the details of which are as follows:-

Ex.P-1 is the copy of FIR dated 17.06.2005

Ex.P-2 is the copy of wound certificate dated 30.6.2005 given by the Government Hospital, Hosur.

Ex.P-3 is the copy of the insurance policy

Ex.P-4 is the copy of the report of the Motor Vehicle Inspector

Ex.P-6 is the x-ray report

Ex.P-7 is the permanent disability certificate

Ex.P-8 is the x-ray

On the side of the respondents/appellant herein, no document was filed and no witness was examined.

4. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that there was no contra evidence on the side of the appellant herein with regard to the negligence came to conclusion that the accident had occurred only due to the rash and negligent act of the driver of the Hero Honda Motorcylce and consequently fixed the liability on the appellant Insurance Company to compensate the claimants. On this issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived by the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted a sum of Rs.2,26,600/- as compensation with interest at 9% per annum. The Tribunal taking note fact that the claimant would have earned a sum of Rs.100/- per day fixed the monthly income at Rs.3,000/-. Taking into consideration the permanent disability, adopting multiplier 16 as per the second schedule of the Motor Vehicles Act, the Tribunal awarded a sum of Rs.2,01,600/- towards future earning capacity ($\text{Rs.3000} \times 12 \times 35 / 100 \times 16$). The Tribunal also awarded a sum of Rs.20,000/- towards pain and suffering and mental agony and Rs.5,000/- towards transport expenses. As the claimant did not spend any amount towards medical expenses, the Tribunal has not awarded any amount towards the same.

6. On the face of the award, there appears to be no infirmity in the quantum of compensation granted by the Tribunal and the interest also is not excessive as the accident happened in the year 2005 and the Tribunal awarded meagre sum towards pain and suffering and transport expenses and no amount has been awarded towards attender charges.

7. Finding no merit, this Civil Miscellaneous Appeal is dismissed. It is stated that the appellant had deposited the entire compensation amount. The claimant is permitted to withdraw the amount lying in deposit along with accrued interests and costs, if any. No costs. Consequently, connected miscellaneous petition is closed.

sl

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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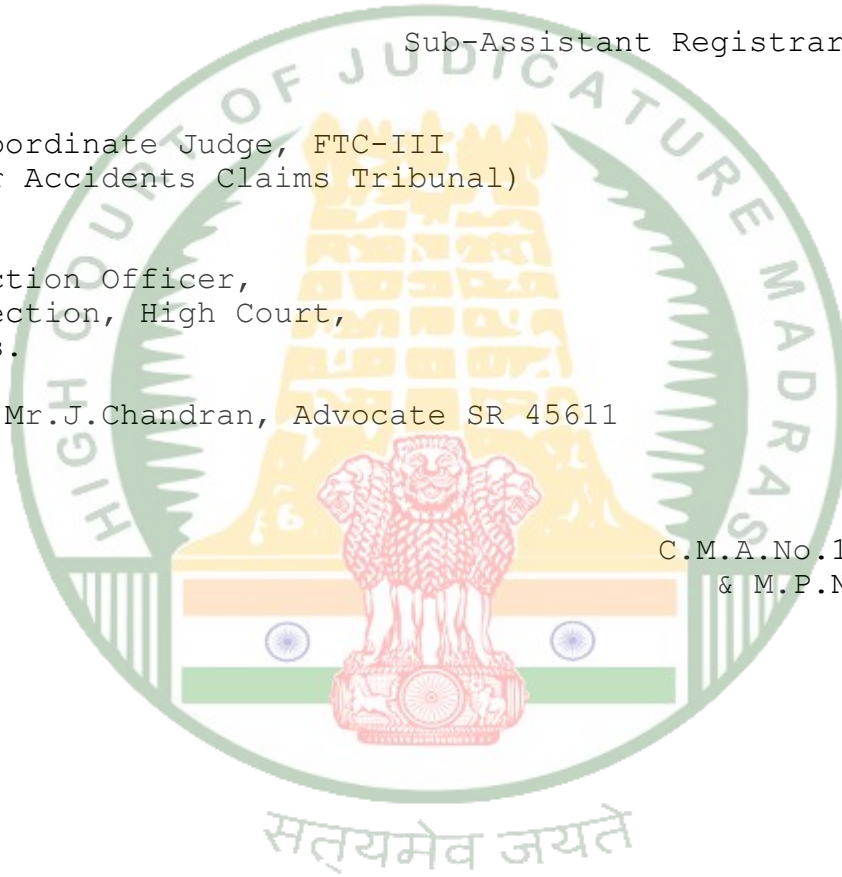
1. The Subordinate Judge, FTC-III
(Motor Accidents Claims Tribunal)
Hosur.

2. The Section Officer,
V.R.Section, High Court,
Madras.

+ 1 cc to Mr.J.Chandran, Advocate SR 45611

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