

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.1.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA.No.3511 of 2014

T.Anbu Aruldas @ Anbu Arul

...Appellant/Petitioner

Versus

1.Thirumalai Iyyan

2.The Divisional Manager,

The United India Insurance Co.Ltd.,

No.73-C, MTH Road, Ambattur,

Chennai-600 053

...Respondents/Respondents

This civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act 59 of 1988 against the judgment and decree dated 07.12.2010 made in MCOP.No.266 of 2007 on the file of the Motor Accident Claims Tribunal and Additional District Judge FTC IV, Ponneri.

For Appellant : Mr.T.P.Sekar

For Respondents : Mr.J.Chandran for R2

J U D G E M E N T

The appeal has been preferred by the claimant aggrieved over the quantum of compensation Rs.1,77,000/- awarded by the Tribunal for the injuries sustained causing fracture of both bones in left leg in the accident which occurred on 6.5.2010. Therefore, the claim petition. The Tribunal found that the accident occurred because of negligent driving of the vehicle belonging to the first respondent insured with the second respondent and awarded a sum of Rs.1,77,000/-. Only aggrieved over the quantum of compensation, the claimant is before this Court.

2. Heard Mr.T.P.Sekar, learned counsel appearing for the appellant and Mr.J.Chandran, learned counsel appearing for the second respondent.

3. It is evident from the records Ex.P3,P4,P7 and P8 and oral evidence of PW2 Doctor that the claimant sustained fracture in left leg. However, the injuries sustained by the claimant cannot be fixed at 80% simply as per the evidence adduced by the P.W.2 Doctor. Therefore, this court determines the disability at 50% and awards Rs.3000/- per each percentage of disability. Accordingly this courts awards Rs.1,50,000/- towards disability. Since the claimant suffered fractures he was operated. Hence, Rs.12,000/- awarded towards pain and suffering is low and the same is enhanced to Rs.30,000/-. Rs.15,000/- awarded towards medical expenses is confirmed. Since the claimant has to be operated for removing the flats inplanted, this court awards Rs.25,000/- towards future medical expenses. No amount was awarded towards transportation and hence, this Court awards Rs.10,000/-. Similarly towards extra nourishment a sum of Rs.15,000/- is awarded. Towards loss of amenities a sum of Rs.10,000/- is awarded. Hence, the compensation of Rs.1,77,000/- awarded by the Tribunal is enhanced to Rs.2,55,000/-. The rate of interest at 7.5% awarded by the Tribunal, remains unaltered. The appeal is partly allowed. No costs.

4. Since the judgement was passed in the year 7.12.2010 and the appeal was preferred only on 12.8.2014, the appellant did not entitle to have interest for the period between filing the appeal. The second respondent is directed to deposit the entire award amount as per the modified award passed by this Court along with interest and costs within four weeks from the date of the receipt of a copy of the order and on such deposit, the appellant is permitted to withdraw the entire award amount. The appeal is partly allowed. No costs. Consequently the connected M.P.No.1 of 2014 is closed.

Sd/-
Assistant Registrar (CS-II)

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Sub Assistant Registrar

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To

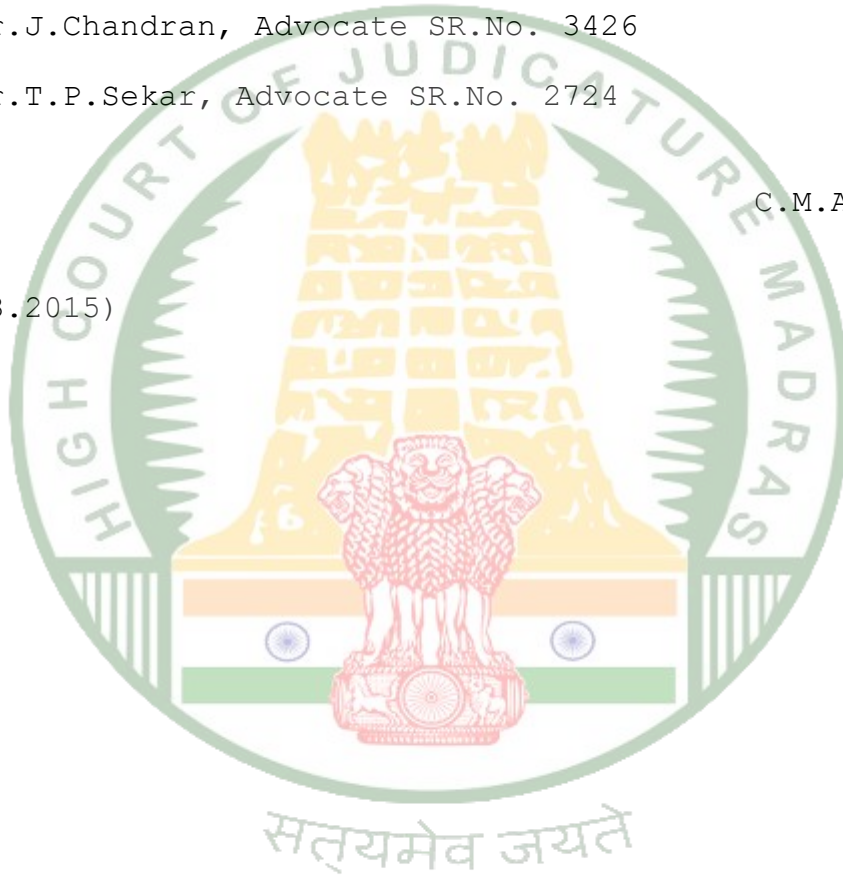
The Motor Accident Claims Tribunal and
Additional District Judge
FTC IV, Ponneri

1 CC to Mr.J.Chandran, Advocate SR.No. 3426

1 CC to Mr.T.P.Sekar, Advocate SR.No. 2724

C.M.A.No.3511 of 2014

RSI (CO)
PSI (19.03.2015)



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