

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23/09/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

C.M.A.No.405 of 2012

A.Manikandan

.. Appellant

Vs.

1.Kishore Mali

2.United India Insurance Company Limited,
No.38, Anna Salai,
Chennai - 600 002.
Now having its office at "Silingh Building"
No.134, Greams Road, Chennai - 600 006.
(R1 remained exparte in Lower Court
Hence notice may be dispenses with)

.. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the judgment and decree in O.P.No.3239 of 2003, dated 04.07.2011, on the file of the Motor Accident Claims Tribunal, III Judge, Small Causes Court, Chennai.

For Appellant : Mr.A.Shanmugaraj

For Respondents: Mrs.R.Rathna Thara for R2
Exparte for R1

J U D G M E N T

The short facts of the case are as follows:-

The claimant was proceeding on his bicycle on 17.03.2001 at about 05.15 p.m., on the Perambur Paper Mills Road and at that point of time, the car bearing registration No.TN-05D-3344 had been driven by its driver in a rash and negligent manner and dashed against him. As a result, he had sustained injuries. Hence, a claim petition had been leveled against the owner and insurer of the offending vehicle.

2. The Insurance Company had filed a counter statement and resisted the claim. The respondent denied the said accident. Further, the car had not been covered under valid documents. Besides the driver of the car did not possess valid driving licence. The averments regarding age, income, nature of injuries and mode of treatment was denied.

3. After recording the averments of both sides, the Tribunal had framed four issues. On the side of the claimant, two witnesses were examined and eight documents were marked. After recording the evidence of the witnesses, the Tribunal had granted a sum of Rs.70,000/- as compensation with interest. Not being satisfied with the quantum of compensation, the claimant has filed the above appeal seeking additional compensation of a sum of Rs.30,000/-.

4. The highly competent counsel Mr.A.Shanmugaraj, appearing for the claimant submits that the F.I.R has been registered against the driver of the car. The same was insured with the Insurance Company. Hence, negligence and liability had been proved. The claimant's age was 13 years and he was a school going boy at the time of accident. The claimant had sustained bone fracture injuries on his right elbow and left knee. He had undergone treatment at two different hospitals. The Doctor had assessed the disability at 20%. The Tribunal had not granted adequate compensation under the relevant heads.

5. The very competent counsel Mrs.Rathina Thara, appearing for the Insurance Company submits that the claimant had sustained simple injuries and he was treated as outpatient. However, the Tribunal had granted adequate compensation. Further, the Tribunal had granted compensation of a sum of Rs.5,000/- under the head of medical expenses in the absence of medical bills and also granted a sum of Rs.10,000/- towards loss of education which is not pertinent in the instant case as the claimant's studies has not been affected. Hence, the very competent counsel entreats the Court to dismiss the above appeal.

6. On considering the facts and circumstances of the case and arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the Tribunal had not granted adequate compensation under the head of pain and suffering and not granted compensation under the heads of attender charges and loss of amenities. Hence, this Court grants a sum of Rs.10,000/- towards pain and suffering; Rs.5,000/- attender charges; Rs.15,000/- towards loss of amenities. In total, this Court grants a sum of Rs.30,000/- as additional compensation. This amount will carry interest at the rate of 7.5% per annum from the date of filing the claim till date of payment of compensation. This Court directs the Insurance Company to execute the said award within a period of six weeks by way of deposit before the Trial Court.

7. After such a deposit being made, it is open to the claimant to withdraw the said compensation amount after filing a memo, along with a copy of this order. Hence, the above appeal is allowed. There is no order as to costs.

Ub

Sd/-
Assistant Registrar (IV)

/True Copy/

Sub-Assistant Registrar

To

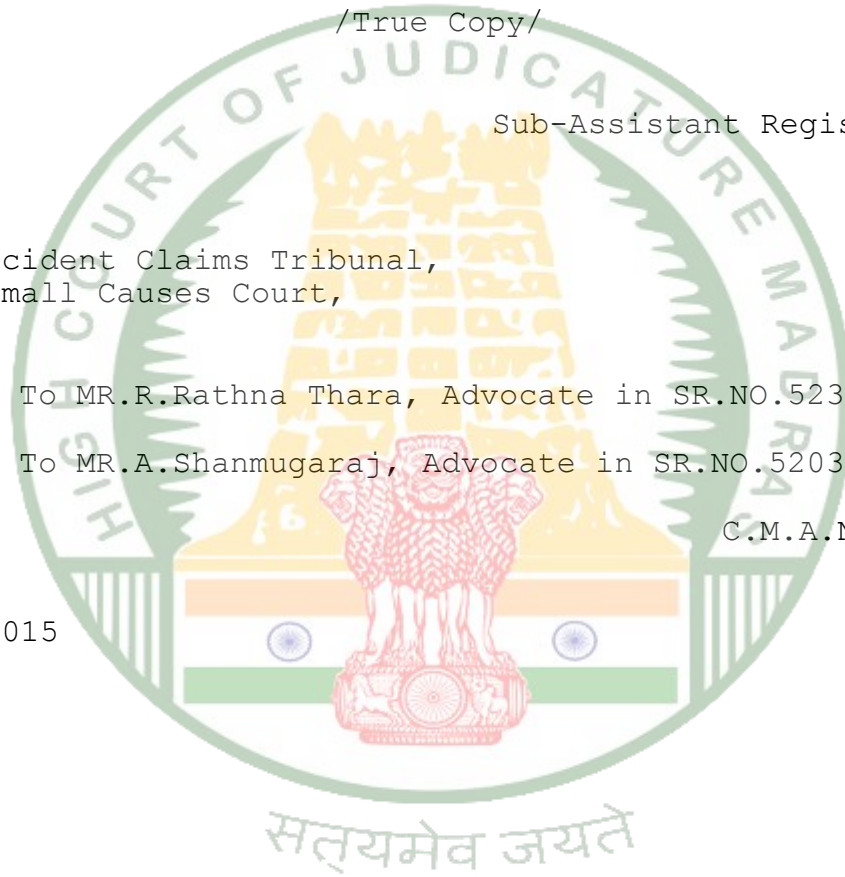
The Motor Accident Claims Tribunal,
III Judge, Small Causes Court,
Chennai.

+1 C.C. To MR.R.Rathna Thara, Advocate in SR.NO.52357

+1 C.C. To MR.A.Shanmugaraj, Advocate in SR.NO.52033

C.M.A.No.405 of 2012

SVI (CO)
sd : 24/11/2015



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