

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2016

Coram

The Hon'ble Mr. Justice A.SELVAM
and
The Hon'ble Mr. Justice P.KALAIYARASAN

C.M.A.No.1030 of 2016

R.Mahaboob Ali ... Appellant/Petitioner

Vs

1.S.Ganeswaran

2.United India Insurance Company Ltd.,
Motor Third Party Claims HUB,
Silinghi Buildings,
No.134, Greams Raod,
Chennai-600 006 ... Respondents/Respondents

Civil Miscellaneous Appeal preferred against the judgment and decree dated 15.12.2015, passed in M.C.O.P.No.5714 of 2012, on the file of III Judge, Motor Accident Claims Tribunal (Court of Small Causes), Chennai.

For Appellant ... Ms.Fathima for
Mr.M.Swamikkannu
For Respondents .. Mr.A.Dhiraviyanathan for R2
R1 Exparte before lower Court

JUDGMENT

(Judgment of the Court was delivered by A.SELVAM, J.)

This Civil Miscellaneous Appeal has been directed against the award dated 15.12.2015, passed in M.C.O.P.No.5714 of 2012, by the Motor Accidents Claims Tribunal/III Small Causes Court, Chennai.

2. The appellant herein, as petitioner, has filed M.C.O.P.No.5714 of 2012, on the file of the Motor Accidents Claims Tribunal, wherein, the present respondents have been

shown as respondents.

3. It is averred in the petition that on 17.11.2012, at about 12.00 Noon, the petitioner has driven his motorcycle bearing Registration No.TN-04-Q-3786 from South to North direction in Valluvarkottam High Road. At that time, the car bearing Registration No.TN-01-AB-6539, belongs to the first respondent, has been driven in a rash and negligent manner and dashed against the appellant/petitioner and due to that, the appellant/petitioner has sustained various injuries, including fractures. The vehicle which caused the accident has been insured with the second respondent. Under the said circumstances, the present petition has been filed for getting the relief sought therein.

4. In the counter filed on the side of the second respondent it is averred that the entire accident has happened only due to rash and negligent driving of the appellant/petitioner and further, the vehicle of the first respondent has not been insured with the second respondent. The appellant/petitioner has claimed excessive compensation and therefore, the present petition deserves to be dismissed.

5. On the basis of available evidence on record, the Motor Accidents Claims Tribunal has awarded a sum of Rs.8,32,900/- by way of compensation and in order to enhance the same, the present Civil Miscellaneous Petition has been filed, at the instance of the petitioner, as appellant.

6. The learned counsel for the appellant/petitioner has contended that due to accident, the appellant/petitioner has sustained 40% permanent disability. The Motor Accidents Claims Tribunal has erroneously awarded meager amounts towards loss of income and also future medical expense. Further, the Motor Accidents Claims Tribunal has erroneously awarded a sum of Rs.1,20,000/- towards permanent disability. Under the said circumstances, the quantum of compensation fixed by the Motor Accidents Claims Tribunal is liable to be enhanced.

7. The learned counsel for the second respondent has contended that on the basis of disability sustained by the appellant/petitioner, the Motor Accidents Claims Tribunal has rightly awarded a sum of Rs.8,32,900/- by way of compensation and since the Motor Accidents Claims Tribunal has calculated the quantum of compensation on the basis of documents produced on the side of the appellant/petitioner, the award passed by the Motor Accidents Claims Tribunal does not call for any interference.

8. It is seen from the records that the appellant/petitioner has sustained 40% permanent disability. The Motor Accidents Claims Tribunal has awarded Rs.3000/- per percent and in aggregation it has awarded a sum of Rs.1,20,000/- towards permanent disability.

9. Considering the fact that the appellant/petitioner has sustained 40% permanent disability and the Motor Accidents Claims Tribunal has awarded a sum of Rs.3000/- per percent, this Court is of the view that the method adopted by the Motor Accidents Claims Tribunal is perfectly correct and the same is not liable to be interfered with.

10. The Motor Accidents Claims Tribunal has awarded future medical expenses of Rs.50,000/-.

11. It is seen from the evidence that in the right leg of the appellant/petitioner, plates have been fixed and the same should be removed in future. Under the said circumstances, this Court is of the view to award Rs.1,00,000/- (Rupees one lakh only) towards future medical expense and in aggregation, the appellant/petitioner is entitled to get Rs.8,82,900/-. With the above modification, the present Civil Miscellaneous Appeal is liable to be allowed in part.

In fine, this Civil Miscellaneous Appeal is allowed in part without cost. The quantum of compensation fixed by the Motor Accidents Claims Tribunal at Rs.8,32,900/- is modified as follows:

The appellant/petitioner is entitled to get Rs.1,00,000/- (Rupees one lakh only) towards future medical expense and in aggregation, he is entitled to get Rs.8,82,900/-.

Connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

msk

To
The Registrar
Motor Accidents Claims Tribunal (Court of Small Causes),
Chennai.

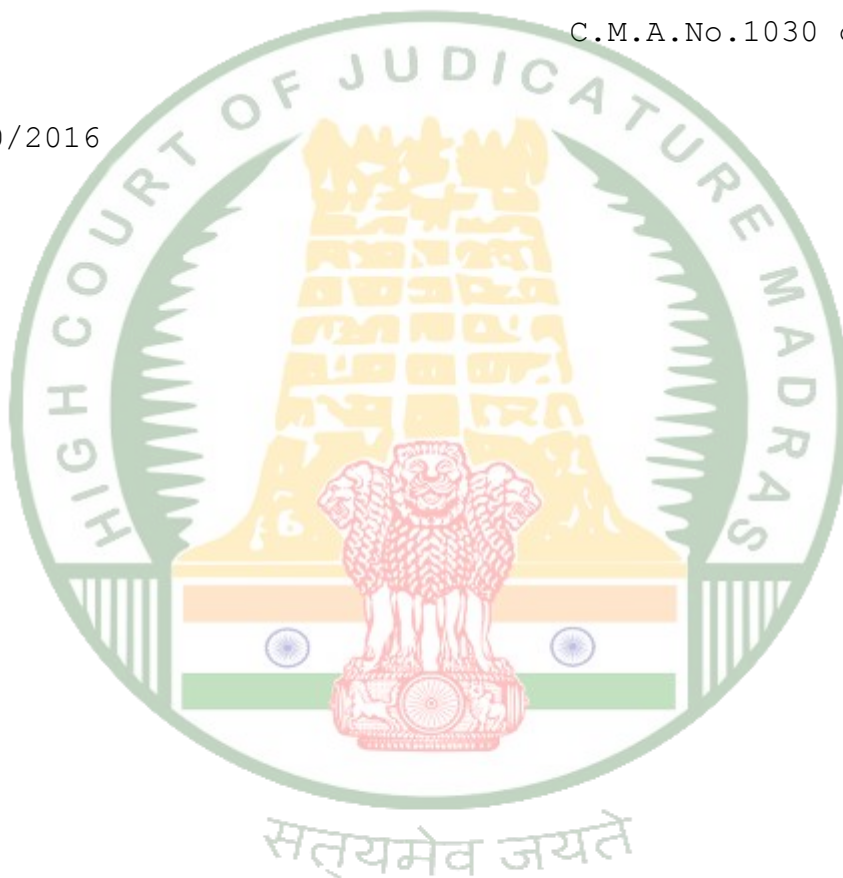
+1 CC to Mr. M. Swamikkannu , Advocate Sr.No.44803

+1 CC to Mr. A. Dhiraviyananthan, Advocate Sr.No.44615

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GJ (CO)

MD : 03/10/2016



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