

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.837 of 2016

Raja Mansingh

..Appellant/petitioner

..vs..

1. Selvaraj
(Notice to R1 may be dispensed with
set exparte before the Tribunal)
2. HDFC HUBB General Insurance Co., Ltd.,
Rahaja Tower, Delta-4
1771 Anna Salai, Chennai.
3. Kun Auto CompanyLtd.,
D4&D5, Ambattur Industrial and State,
Chennai 600 058. .Respondents/respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 16.06.2015 passed in M.C.O.P.No.306 of 2007 on the file of the Motor Accidents Claims Tribunal, Sub Court, Sankari.

For Appellant : Mr.C.Paraneedharan

JUDGMENT

Aggrieved by the award of the Motor Accidents Claims Tribunal, Sub Court, Sankari, in M.C.O.P.No.306 of 2007 dated 16.06.2015 in granting compensation only to the tune of Rs.1,04,000/-, as against the claim of Rs.3 lakhs, the appellant/claimant has come forward with the present Civil Miscellaneous Appeal for enhancement.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. On 14.04.2007 at about 8.00 p.m., when the appellant/claimant was travelling along with one Umashankar @ Madhu near Narayanapalayam in Tiruchengode to Sankari Road in a car

bearing registration No. TN 10 V 7777, due to the rash and negligent driving of the driver of the car, it hit against a tree, in which the said Umashankar died on the spot and the claimant sustained multiple injuries all over the body and he was taken to Lotus Hospital, Erode. Claiming compensation to the tune of Rs.3 lakhs, the appellant/claimant approached the Tribunal and the Tribunal has granted a sum of Rs.1,04,000/- as compensation. Aggrieved over the same, the present appeal is filed.

4. The contention of the appellant/claimant is that though the income pleaded was a sum of Rs.20,000/- per month, the Tribunal has taken only a sum of Rs.4,500/- per month. Further, according to him, the Doctor, who was examined as P.W.2 has stated that the claimant sustained disability at 22% and issued Disability certificate, which was marked as Ex.P.11. However, the Tribunal has awarded Rs.2,000/- per percentage of disability instead of applying multiplier method, even though the appellant has sustained permanent disability. That apart, only a meager amount was awarded under other heads particularly for pain and suffering.

5. The Honourable Apex Court, in the judgment rendered in Syed Sadiq V. Divisional Manager, United India Insurance Co. Ltd reported in 2014 (1) TN MAC 459 (SC), in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, determined Rs.6500/- as the monthly income. Taking note of the Syed's case referred to above, since the accident in this case had occurred in the year 2007, in the absence of any proof, I am of the view that the Tribunal has not committed any error in taking the monthly income of the deceased as Rs.4,500/-.

6. That apart, as the accident was of the year 2007, the practice of granting a sum of Rs.2,000/- per percentage was prevailing. Hence, the Tribunal has followed the right procedure and awarded compensation for 22% disability at Rs.44,000/-, which is evident from Ex.P.11, Disability certificate issued by P.W.2. Doctor. Further, I am of the view that the amount of compensation awarded under other heads particularly for pain and suffering is also justified. Hence, I find no ground to interfere with the award of the Tribunal.

7. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal for enhancement is dismissed. There will be no order as to costs in this appeal.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

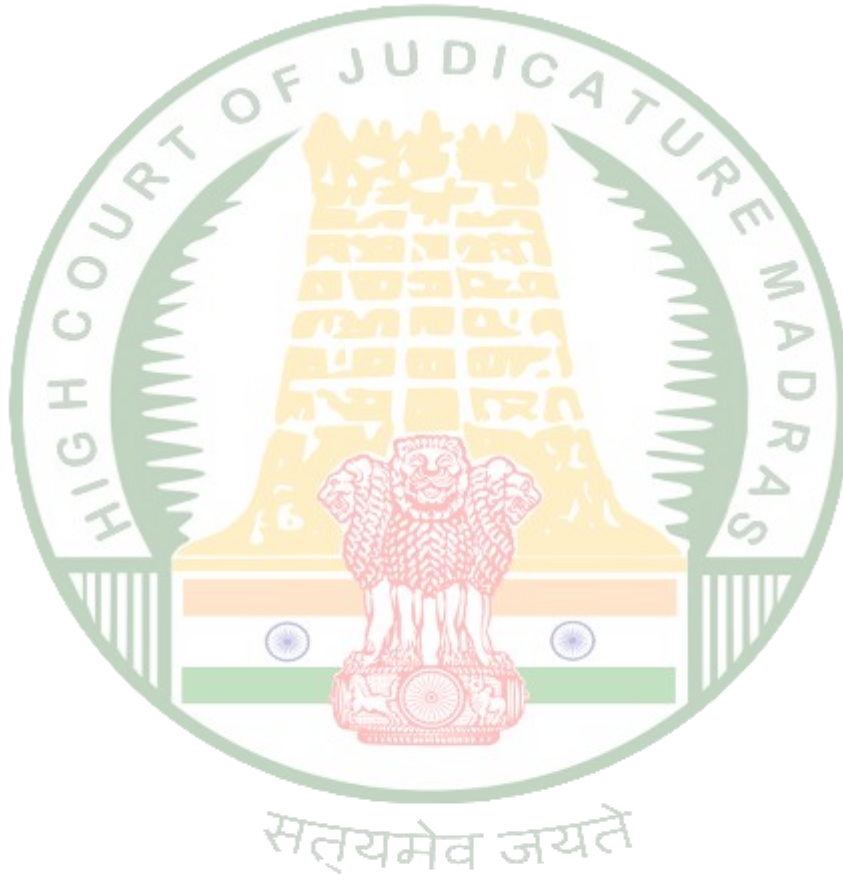
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To

The Motor Accidents Claims Tribunal
Sub Court, Sankari.

C.M.A.No.837 of 2016

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