

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1235 of 2017

K. Rani

..Appellant/Petitioner

Vs.

1. K. Ramachandran

2. The United India Insurance Co. Ltd.,
Motor III party Claims Office,
No.38, Anna Salai, Chennai - 2. ..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 as against the judgment and decree dated 15.09.2015 passed in M.C.O.P. No. 501 of 2005 by the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee.

For Appellant :: Ms. Maithri Mahalingam

For Respondents:: R1- Exparte
Mr.A. Dhiraviyanathan for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimant as against the quantum of compensation awarded by the Tribunal to the tune of Rs. 69,650/- for the injuries sustained by her in the accident which occurred on 08.07.2005, when the claimant, who was standing on Royapettah East Road to cross the road, was hit by a motor cycle bearing Registration No. TN 45 J 3833, belonging to the 1st respondent and insured with the 2nd respondent, driven in a rash and negligent manner and the claimant fell down and sustained grievous injuries.

2. Heard Ms.Maithri Mahalingam, learned counsel for the appellant and Mr.A. Dhiraviyanathan, learned counsel for the 2nd respondent.

3. The appeal has been preferred by the claimant and no appeal has been filed by the Insurance Company. Therefore, the finding of the Tribunal with regard to negligence that the motor cycle was driven rashly and negligently has attained finality.

4. Though the learned counsel for the appellant would submit that no multiplier method was adopted and no future income was added, Mr.A. Dhiraviyanathan, learned counsel appearing for the 2nd respondent would submit that the claimant did not undergo any surgery and there were no serious injuries caused to her. Therefore, he would support the award.

5. A close scrutiny of the evidence of P.W.1 would reveal that she herself admitted that she has not sustained any fracture and that she has not undergone any surgery. When such is the categorical evidence adduced in the cross-examination, it is not open to the claimant to contend that she is not able to do any work. Further, the contention of the learned counsel for the appellant that no multiplier method was adopted and no future prospects were added is liable to be rejected, when admittedly, there was neither any fracture sustained nor any surgery undergone by the appellant/claimant, necessitating the application of multiplier method and addition of future prospects. However, the Tribunal, taking a lenient view, determined the disability at 20%, even in the absence of any fracture and any surgery and awarded Rs.40,000/- towards disability. This Court is not inclined to interfere with the discretion exercised by the Tribunal in favour of the claimant. Otherwise, this Court would have set aside even the sum of Rs.40,000/- awarded to the claimant towards disability. The other amounts awarded under the conventional heads are also reasonable and hence, confirmed. Hence, the award of the Tribunal, to the tune of Rs. 69,650/-, together with interest @ 7.5% per annum, is confirmed, being reasonable.

6. The 2nd respondent Insurance Company is directed to deposit the entire award amount, along with interest and costs, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the Tribunal is directed to directly transfer the amount to the Bank account of the appellant/claimant, through RTGS, after getting the required details of Bank Account, within a period of one week thereafter.

7. In the result, the Civil Miscellaneous Appeal fails and the same is dismissed, confirming the award passed by the Tribunal. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

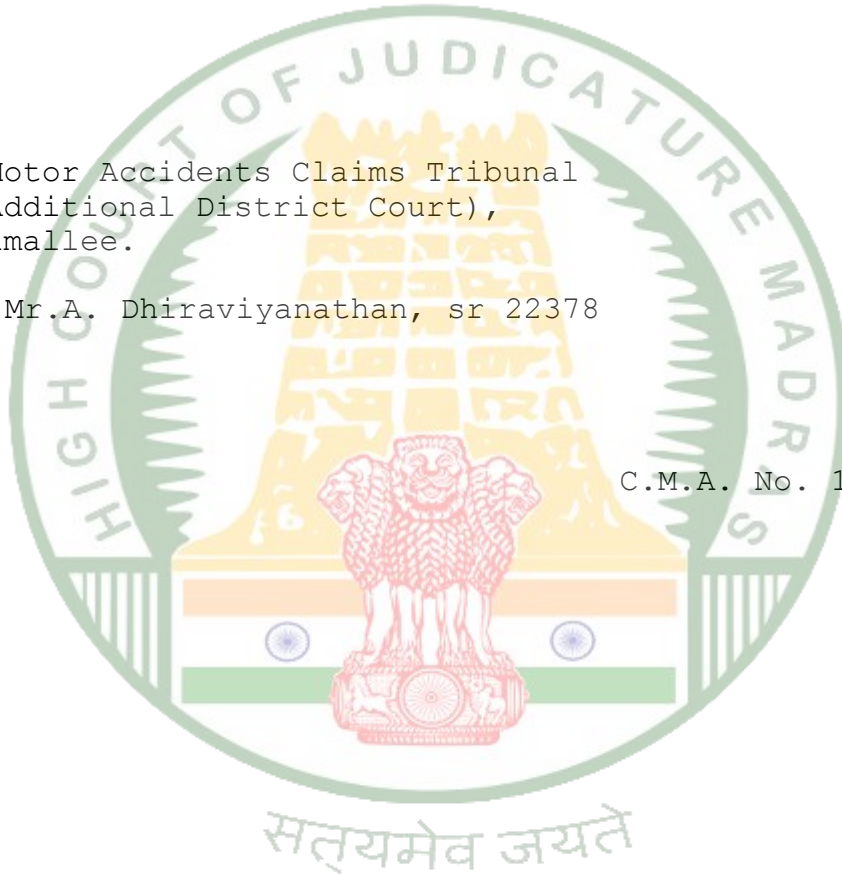
To

The Motor Accidents Claims Tribunal
(II Additional District Court),
Poonamallee.

+1 CC to Mr.A. Dhiraviyanathan, sr 22378

KS (CO)
sp/23/5

C.M.A. No. 1235 of 2017



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