

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-04-2017

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1000 of 2006

N.Ramalingam

... Appellant/Petitioner

Vs

1.S.Lalitha Grover
[R1 set exparte in the trial court]

2.National Insurance Company Limited
751, Anna Salai,
Chennai - 2. ...Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 23.09.2005, made in M.A.C.T.O.P.No.1566 of 2003, on the file of the VI Judge, Motor Accident Claims Tribunal, Small Causes Court, Chennai.

For Appellant : Mrs.V.Suguna
for M/s.C&K Law Firm
For R-2 : Mr.J.Chandran
For R1 : Exparte

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the judgment and decree dated 23.09.2005, made in M.A.C.T.O.P.No.1566 of 2003, on the file of the VI Judge, Motor Accident Claims Tribunal, Small Causes Court, Chennai.

2. The appellant is the claimant, the first respondent is the owner of the vehicle and the second respondent is the insurer of the vehicle. According to the appellant/claimant, on 02.03.2003 at about 7.35 hrs., while the appellant was riding in TVS Moped bearing Regn.No.TN 09 Y 9975 along Munusamy Salai, near Pondichery Guest House, a car bearing Regn.No.TN01 P 5717 driven in a rash and negligent manner, dashed against the claimant, an autorickshaw and telephone post, before coming to halt. In the said accident, the claimant sustained grievous injuries. Hence, the appellant filed claim petition before the Tribunal claiming a compensation of Rs.10,00,000/-.

3. The first respondent remained exparte before the tribunal. The second respondent filed counter denying all the averments made by the claimant and submitted that the as per the registration certificate, the vehicle bearing Regn.No.TN01 P 5717 stands in the name of one S.Lalitha whereas S.Lalitha Grover has been impleaded as first respondent and hence they are not liable to pay the compensation. It is further stated that the appellant had failed to prove his age, avocation, place, date & time of the accident, nature of injuries, period of treatment and expenses incurred. It is further stated that the quantum of compensation claimed by the appellant on various heads are very high and that the petition has to be dismissed.

4. Before the Tribunal, the appellant examined himself as PW1 and Dr.J.R.R. Thegarajan was examined as PW2. Fourteen documents viz. Exs.P1 to P14. were marked on the side of the appellant. No one was examined and no document was marked on the side of the respondents.

5. After analysing the oral and documentary evidence, the Tribunal has come to a conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the car insured with the 2nd respondent and awarded a sum of Rs.4,75,000/- as compensation. Not satisfied with the amount of compensation awarded by the Tribunal, the appellant has filed the present appeal for enhancement of compensation.

6. The learned counsel for the appellant submitted that the appellant produced medical bills for Rs.4,26,140.89 whereas the Tribunal erred in awarding only a sum of Rs.2,50,000/-. He further submitted that the reasoning given by the Tribunal that the appellant had claimed the medical expenses twice and there was some calculation error caused while totalling the bills is erroneous. It is further stated that the amounts awarded under the heads loss of earning, permanent disability, transportation, extra nourishment, mental agony, attender charges are pain & sufferings are too meagre and prayed for enhancement of compensation.

7. The learned counsel for the second respondent submitted that the compensation awarded by the Tribunal is excessive and that the Tribunal awarded double compensation for permanent disability as well as for loss of earning capacity and prayed for dismissal of the appeal.

8. Heard the parties and perused the materials available on record.

9. The appellant has contended that he is kerosene selling merchant and earning a sum of Rs.200/- per day however, he has not substantiated his claim. In the said circumstances, the Tribunal has fixed the loss of income at Rs.4,000/- which is in consonance with various judgments of this Court and Hon'ble Supreme Court. Considering the nature of work done by the appellant, the Tribunal has held that the appellant could not have done any work for six months and awarded a sum of Rs.24,000/- (Rs.4,000/- x 6) towards loss of earning. The Tribunal, after careful perusal of the medical bills and rejecting the double claims, awarded a sum of Rs.2,50,000/- towards medical expenses. Similarly, the Tribunal considered the disability certificate of the appellant and awarded a sum of Rs.80,000/- under the head partial permanent disability. Thus, the amounts awarded by the Tribunal under different heads are after analysing all the records. This Court is of the considered opinion that the compensation awarded by the Tribunal is very reasonable and hence the same is confirmed.

10. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

11. The respondent/insurance company is directed to deposit the entire award amount alongwith interest and costs, within a period of six weeks from the date of receipt of a copy of this order, after adjusting the amount already deposited, if any. On such deposit, the appellant/claimant is permitted to withdraw the entire award amount alongwith interest and costs, after adjusting the amount already withdrawn if any.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

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

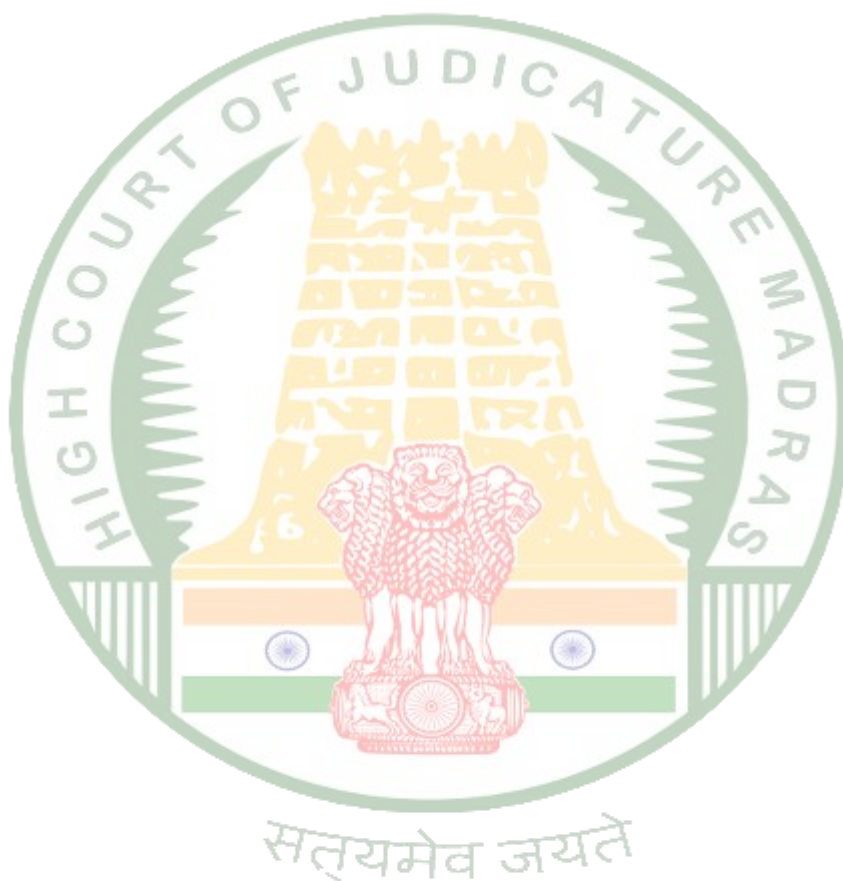
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2.The Section Officer,
V.R.Section,
High Court,Chennai.

+1 cc to Mr.J.Chandran,advocate,sr.20537.

rj(co)
krd 25/4

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