

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2817 of 2008

N.A.Sadiq

... Appellant

..Vs..

Metropolitan Transport Corporation Ltd.,
Division - II,
Ayanavaram,
Chennai 600 023.

...Respondent

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the common judgment and decree in M.C.O.P.No.1950 of 2002 dated 01.11.2007 on the file of the VI Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai and praying to set aside the same.

For Appellants : Mr.A.Shanmugaraj

For Respondent : Mr.S.S.Swaminathan

JUDGMENT

The appellant is the claimant in M.C.O.P.No.1950 of 2002 dated 01.11.2007 on the file of the VI Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai. He filed a claim petition seeking a compensation of Rs.1,00,000/- for the injury sustained by him in a road accident that took place on 13.09.1999.

2.The brief case of the claimants is as follows:

On 13.09.1999 at about 02.45 pm, the claimant was riding a scooter bearing Registration No. TN-02-B-7938 along with a person as a pillion rider along Uthamar Gandhi Salai, Chennai.

At that time, a speeding bus bearing Registration No. TN 02 N 0316 belonging to the respondent hit the claimant, as a result of which, he sustained injuries. He was immediately rushed to the Government Hospital, where, he was admitted as an inpatient till 14.09.1999. Subsequently, he took treatment for two months as out patient. The respondents filed a counter denying all the allegations of the petitioner.

3.The learned VI Judge, Court of Small Causes, Chennai after analysing the evidence on record, awarded a sum of Rs.50,000/- to the claimant together with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit. Aggrieved over the quantum of compensation, the present appeal is filed by the claimant under Section 173 of the Motor Vehicles Act.

4. Mr.A.Shanmugaraj, learned counsel appearing for the appellant contended that the appellant filed a petition under Section 163(A) of Motor Vehicles Act read with Rule (3) of MACT and that as per second schedule, multiplier method should be adopted for calculating the loss of earning capacity and that the trial court has committed an error in awarding only a sum of Rs.25,000/- especially when the partial permanent disability as per the doctor Thiagarajan (P.W.3) is 25%.

5. A perusal of Ex.P2 shows that the appellant was admitted as an inpatient on 13.09.1999 and was discharged on 14.09.1999. It is quite shocking to note that Ex.P2 does not contain the seal of the Hospital and the designation of the person who has signed Ex.P2 is also not known. The nature of injury is also not found in Ex.P2. However, Dr.Thiagarajan (P.W.3) has assessed the partial permanent disability as 25% and issued a disability certificate Ex.P4. Based on this certificate, the trial court has awarded a sum of Rs.25,000/- towards partial permanent disability. Apart from awarding this amount, a sum of Rs.20,000/- is awarded under the heads 'pain and sufferings', 'extra nourishment' and 'medical transportation'. A sum of Rs.5,000/- is also awarded towards loss of earning. Thus, the trial court has awarded a total compensation of Rs.50,000/- together with interest at the rate of 7.5% per annum. By any stretch of imagination, the award passed by the tribunal can be considered as too meagre, especially, when the injuries sustained by the appellant/claimant are not serious in nature. The respondent/ Metropolitan Transport Corporation Limited also did not question the quantum of compensation awarded by the Trial court. Therefore, I do not see any reason to enhance the quantum of compensation awarded by the Tribunal.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed.
No costs.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

mbi/dna

To

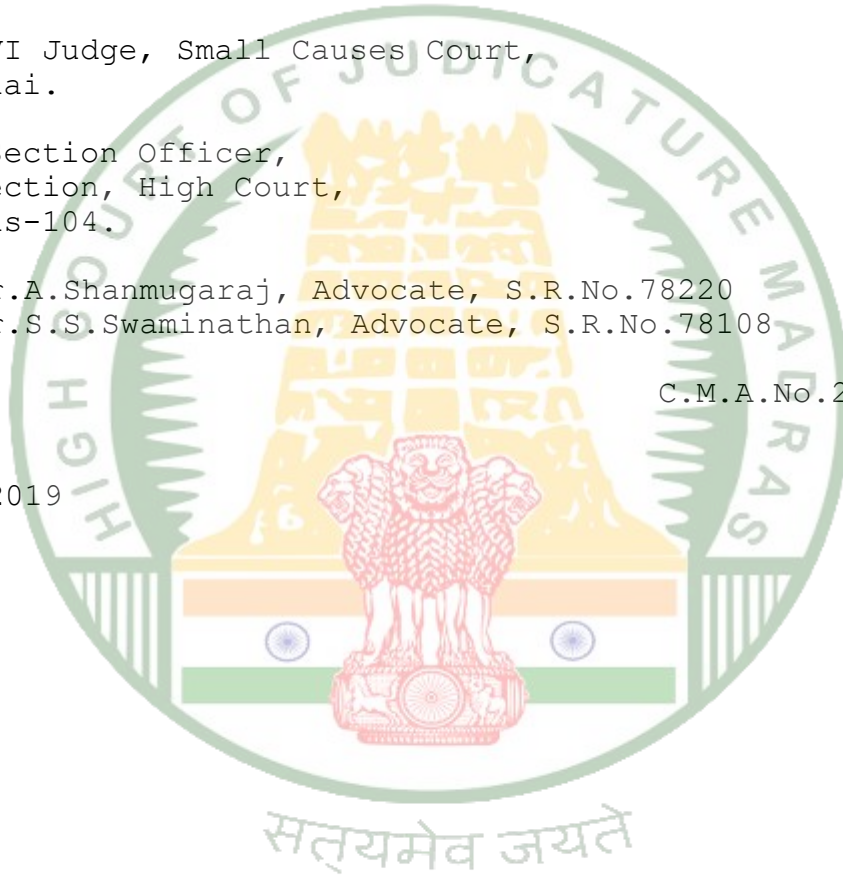
1. The VI Judge, Small Causes Court,
Chennai.
2. The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.A.Shanmugaraj, Advocate, S.R.No.78220

+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No.78108

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PP(CO)
CS/20/06/2019



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