

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1489 of 2011

S.Sampath

... Appellant (Claimant)

..Vs..

1.T.Sekar
(R1 exparte in lower court

2.Iffco-Tokio General Insurance Co. Ltd.,
No.28/195, 1st & 2nd Floor,
North Usman Road,
Chennai - 1.

...Respondents (Respondents)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 16.07.2010 in M.C.O.P.No.1506 of 2007 on the file of the Motor Accidents Claims Tribunal, II Judge, Court of Small Causes, Chennai.

For Appellants : Mr.S.Gangaram Prasad

For Respondents : Mr.C.R.Krishnamoorthy for R2
R1 Ex-Parte

JUDGMENT

The appellant is the claimant. He filed M.C.O.P.No.1506 of 2007 to get compensation from the respondents 1 and 2 for the injuries suffered by him in a road accident that took place on 05.03.2007.

2. The case of the appellant/claimant is that he was travelling as a passenger in an auto rickshaw bearing Registration No. TN-04-S-5719 belonging to the first respondent on Thiruvottiyur High Road. While they were nearing Thiruvottiyur market, a van bearing Registration No.TN-22-U-9964 came in the opposite direction rashly and negligently and hit

the auto, as a result of which, the appellant/claimant sustained grievous injuries.

3. According to the appellant/claimant, the driver of the first respondent's vehicle is responsible for the accident. Since the first respondent has insured his vehicle with the second respondent, both of them are jointly and severely liable to pay the compensation to him.

4. The first respondent remained absent and was set ex-parte by the trial Court. The second respondent namely, the Iffco-Tokio General Insurance Company Limited filed their counter denying all the allegations of the appellant/claimant.

5. The learned II Judge, Court of Small Causes, Chennai, after analyzing the entire evidence on record, awarded a compensation of Rs.3,20,500/- to the appellant/claimant together with the interest at the rate of 7.5% per annum. Aggrieved over the same, the appellant/claimant preferred this appeal under Section 173 of Motor Vehicles Act, 1988.

6. Mr.S.Gangaram Prasad, the learned counsel appearing for the appellant would contend that the trial Court has not applied the multiplier method while calculating loss of estate and that the compensation awarded to the appellant/claimant is very low. He also relied on the decision in G.Dhanasekar versus Managing Director, Metropolitan Transport Corporation Ltd., reported in 2014 ACJ 1007 and contended that in the decision relied to above, the claimant was a driver and he sustained multiple injuries all over his body and it was found that he would not be in a position to continue his avocation at the same road or in the same manner as before. The facts of the present case are entirely different. The learned counsel appearing for the appellant would contend that the appellant is still wearing a collar around his neck as he sustained injuries on his neck also.

7. Considering this, I hold that awarding a sum of Rs.1,50,000/- for partial permanent disability would meet the ends of justice. The trial Court had fixed the loss of earnings as Rs.13,500/- taking into account his monthly income. This was not disputed by the learned counsel appearing for the appellant.

8. The trial Court further had awarded a sum of Rs.2,000/- for Transportation charges, and in the considered opinion of this Court, it can be enhanced to a sum of Rs.10,000/- and similarly, the appellant/claimant is hereby awarded a sum of Rs.10,000/- for extra nourishment and a sum of Rs.50,000/- for pain and suffering is awarded. The following amount is awarded to the appellant/claimant:

S.Nos.	Heads	Amount granted
1.	Loss of Income	Rs. 13,500/-
2.	Extra nourishment	Rs. 10,000/-
3.	Medical Expenses	Rs.1,60,000/-
4.	Pain and Suffering	Rs. 50,000/-
5.	Partial Permanent disability	Rs.1,50,000/-
6.		
Total		Rs.3,93,500/-

9. Thus the appellant/claimant is entitled to a compensation of Rs.3,93,500/- together with interest at the rate of 7.5% per annum from the date of claim petition, till the date of deposit.

In the result,

(i) The appeal is allowed and a sum of Rs.3,93,500/- (Rupees three lakhs ninety three thousand and five hundred only) is awarded to the appellant/ claimant as compensation together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit. The Iffco-Tokio General Insurance Company, namely, the second respondent is directed to deposit the entire amount of compensation together with interest to the credit of M.C.O.P.No.1506 of 2007 on the file of the Motor Vehicle Accidents Claims Tribunal, II Judge, Court of Small Causes, Chennai, within a period of two months from the date of receipt of a copy of this order. On such deposit being made the appellant/claimant can withdraw the amount immediately after following necessary procedure.

(ii) The claimant is directed to pay necessary court fee for the enhanced amount of the award amount. No costs.

(iii) No order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The II Judge,
Court of Small Causes,
Motor Accident Claims Tribunal,
Chennai.

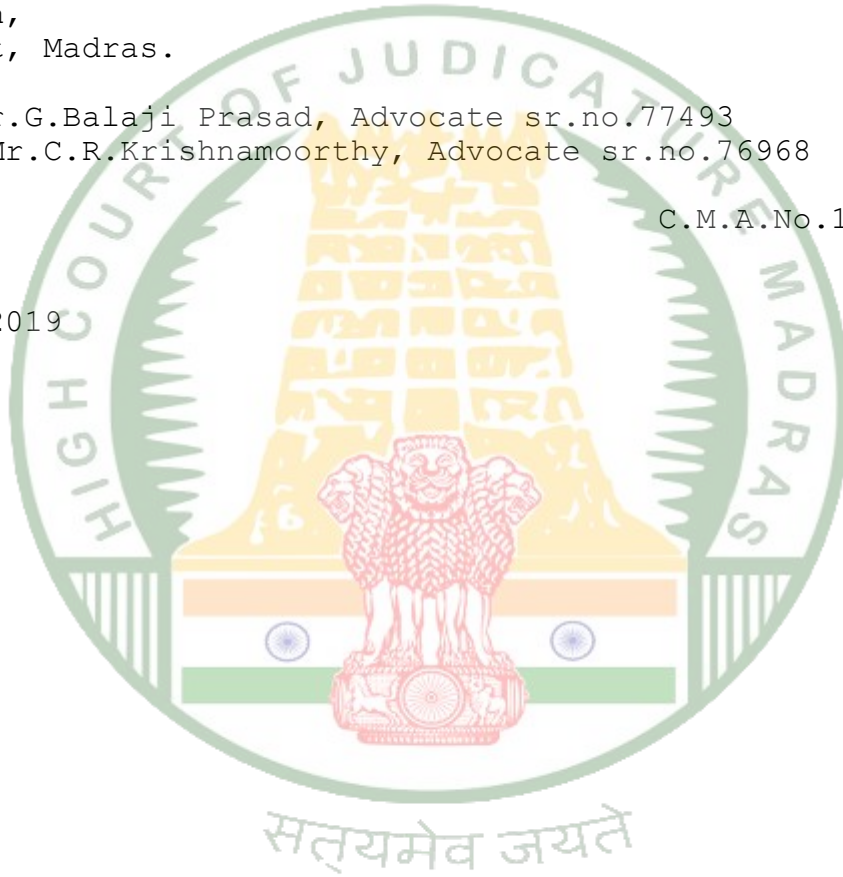
copy to:

The Section Officer
VR Section,
High Court, Madras.

+1cc to Mr.G.Balaji Prasad, Advocate sr.no.77493
+1cc to Mr.C.R.Krishnamoorthy, Advocate sr.no.76968

C.M.A.No.1489 of 2011

sv(co)
nr 30/01/2019



WEB COPY