

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2018

CORAM

THE HONOURABLE MR. JUSTICE Abdul Quddhose

C.M.A.No.3307 of 2009

R.Chidambaram

... Appellant/Petitioner

...Vs...

1.P.Srinivasa Reddy

[Remained ex-parte before the Trial Court]

2.New India Assurance Co. Ltd.,

No.46, Moore Street,

"Regina Mansion",

Chennai - 600 001.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.12.2008 made in MACT.O.P.No.1648 of 2002, on the file of the V Small Causes Court, (Motor Accidents Claims Tribunal) Chennai.

For Appellant : Mr.N.M.Muthurajan

For RR2 : Mr.J.Chandran

RR1 : Exparte

J U D G M E N T

The instant appeal has been filed by the claimant, challenging the compensation awarded by the Motor Accident Claims Tribunal, [V Small Causes Court, Chennai] in its judgment and decree dated 30.12.2008 in MACT.O.P.No.1648 of 2002.

The brief facts leading to the filing of the instant appeal are as follows.

2. The appellant sustained injuries on 16.02.2002 as a result of an accident caused by a Tipper Lorry bearing registration No.TN-22-W-6831 insured with second respondent.

The appellant preferred a claim before the Motor Accident Claims Tribunal, Chennai seeking compensation of Rs.2,50,000/- for the injuries sustained by him, on account of the said accident. The Motor Accident Claims Tribunal by its award dated 30.12.2008 in MACT.O.P.No.1648 of 2002 directed the second respondent to pay the appellant, a sum of Rs.41,000/-together with interest at 7.5% per annum from the date of claim till the date of realization and also awarded cost of Rs.1,632.50/-.

3. Aggrieved by the Award dated 30.12.2008 passed in MACT.O.P.No.1648 of 2002, by the Motor Accident Claims Tribunal, Chennai, the instant appeal has been filed by the appellant seeking enhancement of compensation.

4. Heard Mr.N.M.Muthurajan learned counsel for the appellant and Mr.J.Chandran learned counsel for the second respondent.

5. The learned counsel for the appellant submitted that the appellant sustained crush injuries in left thumb, extensor pollicis - longus left thumb, tendons of left thumb cut and injuries in both the legs.

6. The learned counsel for the appellant contended that the Motor Accident Claims Tribunal has not adequately compensated the appellant, even though the claim made by the appellant before the Tribunal was for a sum of Rs.2,50,000/-. According to the learned counsel for the appellant, as a result of the accident, the appellant had suffered 15% disability and due to the accident, the appellant has suffered loss of earnings, pain, lacked extra nourishment, incurred transportation costs and medical expenses. But, according to him, all these expenses incurred by the appellant were not duly considered and compensated by the Tribunal under the impugned award.

7. Per contra, the learned counsel for the second respondent submits that the injuries suffered by the appellant is only a simple injury and he has not sustained any fracture as a result of the accident. According to the learned counsel for the second respondent, even the sum of Rs.41,000/- awarded for the appellant under the impugned award, is an excessive one, since the accident took place in the year 2002.

8. This Court after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the respective counsels, observes the following:

(a) It is an undisputed fact that the appellant has sustained only a simple injury and has not sustained any fracture as a result of the accident.

(b) The Tribunal has considered all the documents filed in support of the claim and also the oral evidence let in by the parties and only thereafter has come to the conclusion that the appellant is entitled to receive a compensation of Rs.41,000/- from the second respondent.

(c) The impugned award is a reasoned and well considered award.

9. In view of the above observations, this Court of the considered view that there is no merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed.

10. Accordingly, if the award amount not already deposited, the second respondent is directed to deposit the award amount passed by the Tribunal to the credit of MACT.O.P.No.1648 of 2002 on the file of the V Small Causes Court, (Motor Accidents Claims Tribunal) Chennai together with accrued interest. On such deposit being made, the appellant is permitted to withdraw the amount lying to the credit of MACT.O.P.No.1648 of 2002 on the file of the V Small Causes Court, (Motor Accidents Claims Tribunal) Chennai with accrued interest by filing an appropriate application. Consequently, connected miscellaneous petition if any is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
V Small Causes Court, Chennai.

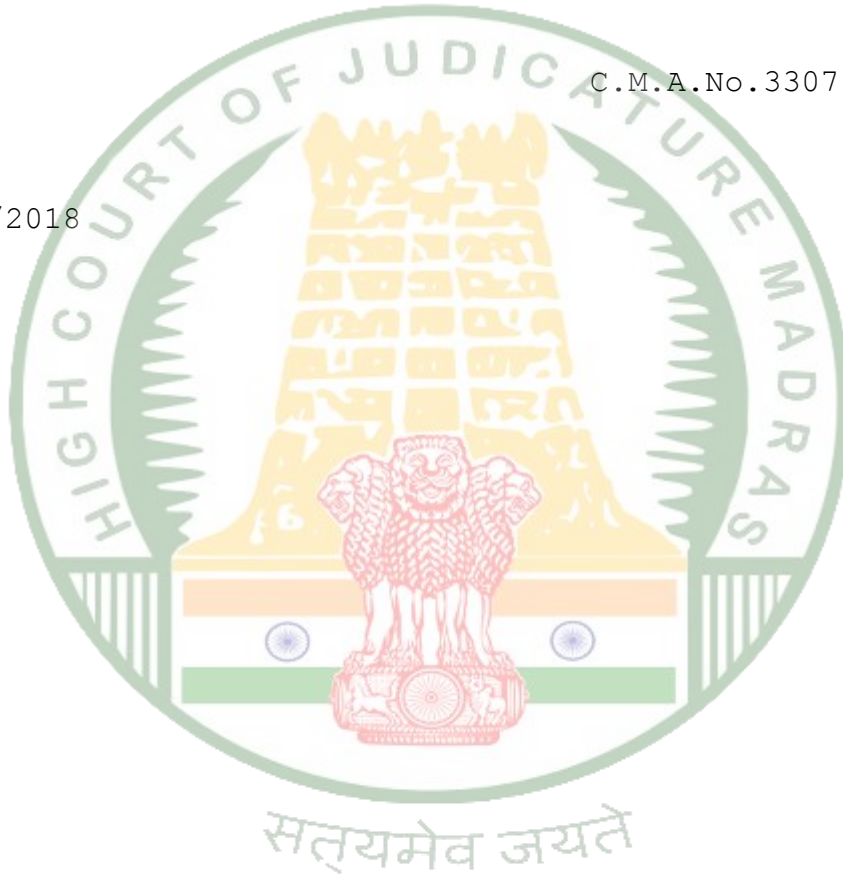
Copy to

The Section Officer,
VR Section,
High Court,
Madras-104.

+lcc to Mr.N.M.Muthurajan, Advocate Sr.58213

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rj[co]
srg 28/09/2018



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