

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.2709 OF 2004

U.S.Equipments, Coimbatore
No.1980, Trichy road,
Singanallur, Coimbatore-641 005
represented by its Proprietor
Mr.C.Vijayakumar,
No.6/47, Krishnar Koil street,
Ramanathapuram,
Coimbatore - 641 045. Appellant/Claimant

Vs.

1. Umagandhi
2. National Insurance Company Ltd.,
Divisional Office,
No.1754 / 2006
Manjappa Street,
Tanjore District - 613 009.
3. Kumar alias Panchamoorthy Respondents/
Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree of the Motor Accidents Claims Tribunal and II Additional District and Sessions Judge (Fast Track Court No.III), Coimbatore, dated 29.08.2002 in M.C.O.P.No.62 of 1995.

For Appellant : Mr.V.Karthikeyan for
M/s.Nicholas and N.E.A.Dinesh

For Respondents : Mrs.N.B.Surekha for R2

JUDGMENT

This appeal is preferred by the appellant/claimant against the award of sum of Rs.42,500/- towards the injuries suffered by his workers and also for the damages caused to his work shop.

2. The case in brief is as follows:-

The appellant is running his workshop in the name and style of 'U.S.Equipments' at 1980 Trichy Road, Opposite to Central Studio, Singanallur, Coimbatore-5. On 11.08.1994 at about 3.50 a.m. while the workers by names T.Kamaraj and V.A.Thiyagarajan were working in the workshop, a tempo bearing Registration No.TN-49-Y-0446 belonging to the first respondent and insured with the second respondent Insurance Company, came in a rash and negligent manner and dashed against the workshop and ran inside the building and caused bodily injuries to the said T.Kamaraj and V.A.Thiyagarajan who were working in the work shop. Due to the said impact, they sustained multiple grievous injuries. The Proprietor of the workshop filed a claim petition before the Tribunal. The Tribunal awarded a total compensation of Rs.42,500/- with interest 9% p.a from the date of petition.

3.Challenging the award of the Tribunal, the present appeal is filed by the appellant/claimant for enhancement of the compensation.

4.The learned counsel for the appellant has submitted that when the fact remained that huge damages have been caused to the workshop due to the accident, the Tribunal is not correct in awarding a sum of Rs.30,000/- as against the claim of Rs.70,904/- made by the appellant towards value of the property. It is also submitted that the compensation awarded by the Tribunal towards the injuries suffered by the injured, is very low and hence the same needs enhancement.

5.Mrs.N.B.Surekha, the learned counsel for the second respondent/Insurance Company has submitted that the Tribunal has considered the materials and evidence available on record in proper perspective and has awarded the compensation which is just, fair and reasonable and hence, the same does not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.On considering the materials and evidence available on record, the Tribunal had given a categorical finding that the accident had occurred only due to the rash and negligent driving of the driver of the tempo van belonging to the first respondent and the same is not disputed by the learned counsel on either side.

8.The Tribunal has awarded a sum of Rs.30,000/- towards damages to property, Rs.7,500/- towards loss of earning and Rs.5,000/- towards hardship and mental pain. Even though the

appellant claimed a sum of Rs.70,914/- towards damages caused to the property on account of the accident, the Tribunal has awarded only Rs.30,000/- towards the said head. Further it is seen that the damaged machineries had been used by the appellant after making necessary repairs. Hence, this Court is of the considered view that awarding a sum of Rs.10,000/- more than the one awarded by the Tribunal towards this head, would meet the ends of justice. Accordingly the amount awarded by the Tribunal at Rs.30,000/- towards damages to property stands modified to Rs.40,000/-. The amounts awarded towards other heads are confirmed.

9.The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Damages to property	40,000/-
Loss of earning	7,500/-
Hardship and mental pain	5,000/-

	52,500/-
	=====

10.Thus, the injured are entitled to the modified compensation of Rs.52,500/-. It is made clear that the compensation of Rs.42,500/- awarded by the Tribunal will carry 9% interest per annum from the date of petition and for the enhanced amount of Rs.10,000/-, the interest rate shall be 7.5% per annum from the date of filing of this appeal.

11.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. The second respondent Insurance Company is directed to deposit the modified amount of compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the injured are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

KM

To

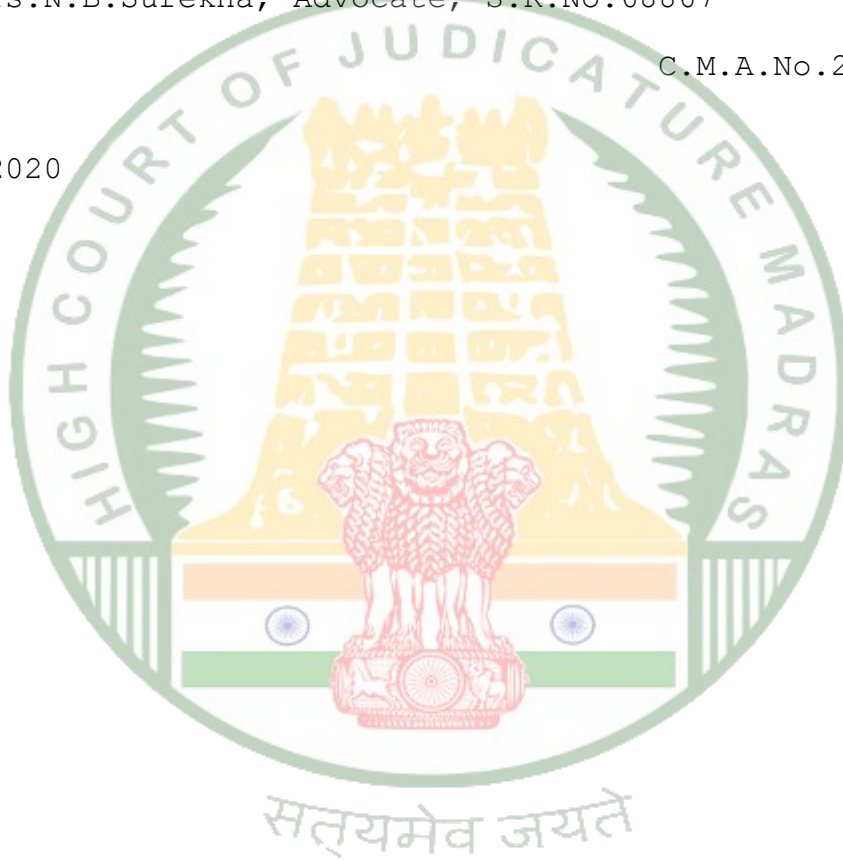
1. The Motor Accidents Claims Tribunal,
Second Additional District & Sessions Judge,
Fast Track Court No.III,
Coimbatore.

Copy To
The Section Officer,
V.R.Section, High Court, Madras.

+1cc to M/s.Nicholas, Advocate, S.R.No.69067
+1cc to Mrs.N.B.Surekha, Advocate, S.R.No.68867

C.M.A.No.2709 of 2004

PA (CO)
CS/08/06/2020



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