

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2696 of 2007

M.Chandra

... Appellant/Petitioner

Vs.

1.G.Raju

2.The New India Assurance Co.Ltd.,

No.46, Moore Street,

Chennai - 600 001.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.03.2006 made in M.C.O.P.No.1955 of 2001 on the file of the Motor Accidents Claims Tribunal, Additional District Sessions Judge, IV Fast Track Court, Chennai.

For Appellant : Mr.A.Shanmugaraj
and G.Tamilselvan

For R2 : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 24.03.2006 made in M.C.O.P.No.1955 of 2001 on the file of the Motor Accidents Claims Tribunal, Additional District Sessions Judge, IV Fast Track Court, Chennai.

2.The appellant by name, M.Chandra, aged 32 years, working as Coolie, earning a sum of Rs.70/- per day, met with an accident on 15.02.2000 at early hours of 00.30 a.m., while travelling in a lorry bearing Registration No.TN07 C 3741, on account of the rash and negligent driving of the driver of another lorry bearing Registration No.TCS 6166. Stating that the accident had occurred due to the rash and negligent driving of the driver of the lorry bearing Regn.No. TCS 6166, she filed a claim petition claiming a compensation of Rs.1,00,000/-.

3.The Tribunal, on consideration of the materials and evidence adduced by the parties, awarded a total compensation of Rs.50,000/- (wrongly stated as Rs.40,000/-) with interest at 7.5%pa from the date of petition. Being dissatisfied with the quantum so awarded, the appellant/claimant has preferred this appeal seeking enhancement of the same.

4.The learned counsel appearing for the appellant/claimant submitted that considering the nature of the injuries sustained by the appellant/claimant, the compensation awarded by the Tribunal is inadequate and the same has to be enhanced substantially.

5.Despite the service of notice and the name of the second respondent having been printed in the cause list, there is no representation on their behalf.

6.Heard the learned counsel for the appellant and perused the materials available on record.

7.This is a claimant's appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, there is no need to go into the findings of the Tribunal on negligence and liability of the second respondent insurance company to pay compensation.

8.As regards the quantum of compensation, the appellant/claimant herself examined as P.W.4, who stated that as a result of the accident, she suffered fracture in right thigh, dislocation in right knee and right shoulder and other multiple injuries. P.W.8/doctor, who examined the appellant/claimant, deposed that due to the injuries, the appellant/claimant finds it difficult to walk, squat and do coolie work and lift the heavy objects by using right hand and she sustained permanent disability to the tune of 35%. As per Ex.P10 discharge summary, the appellant has taken treatment as inpatient from 15.02.2000 to 23.2.2000. Ex.P24 is the disability certificate and Ex.P25 is X ray. Taking note of those oral and documentary evidence, the Tribunal has rightly awarded Rs.35,000/- towards disability, Rs.5,000/- for medical expenses, Rs.1,000/- for transport charges, Rs.8,000/- for pain and suffering and Rs.1,000/- for extra nourishment, in totalling Rs.50,000/- (wrongly calculated as Rs.40,000/-). This Court is of the view that the quantum so awarded by the Tribunal is just and reasonable and the same is hereby confirmed.

9.Finding no merits, this appeal deserves to be dismissed and is accordingly dismissed. No costs. The second respondent/Insurance Company is directed to deposit the award amount of Rs.50,000/- along with interests and costs, less the

amount already deposited if any, within a period of four weeks from the date of receipt of copy of this judgement. On such deposit being made, the Tribunal shall transfer the amount lying in the deposit to the savings bank account of the claimant/appellant through RTGS within one week thereon.

Sd/-
Assistant Registrar(CS VI)

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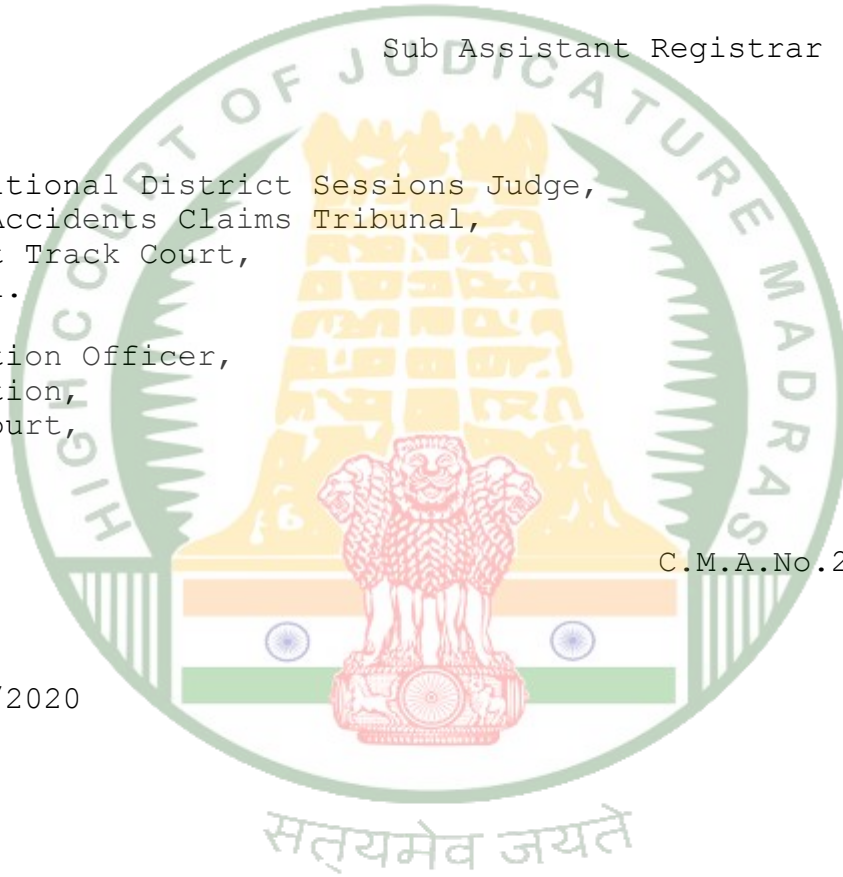
Sub Assistant Registrar

To

- 1.The Additional District Sessions Judge,
Motor Accidents Claims Tribunal,
IV Fast Track Court,
Chennai.
- 2.The Section Officer,
VR Section,
High Court,
Madras.

C.M.A.No.2696 of 2007

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