

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3268 of 2008

Ramachandran ... Appellant/Claimant

Vs

1.P.Duraisamy

2.K.Palanisamy

3.The National Insurance Co.Ltd.,
rep.by its Manager,
Sankari Branch,
Sankari, Salem District. ... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 08.03.2007 made in MACTOP No.27 of 2005 on the file of the Motor Accidents Claims Tribunal cum Sub-Court, Sankagiri.

For Appellant : Mr.M.R.Sivakumar

For Respondents: No appearance for R1
Mr.S.Vadivel for R3

JUDGMENT

The case in brief, is as follows:

On 17.02.2004, at about 10.00 a.m., the appellant was riding his bicycle with his wife from their house to their working place in Edappadi, Salem District, in the left side of the road. When they reached near Alachampalayam Tamil Nadu State Transport Corporation Limited Bus Depot, the JCB vehicle bearing Reg.No.KL-07-AB-4638 belonging to the second respondent, driven

by the first respondent in a rash and negligent manner, came from the opposite direction and dashed against the bicycle. Due to the said impact, the appellant and his wife were thrown away. The appellant sustained multiple injuries all over the body. The appellant filed a claim petition before the Tribunal claiming a sum of Rs.1,00,000/- as total compensation. Considering the materials and evidence available on record, the Tribunal awarded a sum of Rs.19,000/- with interest at the rate of 7.5% per annum from the date of petition, as total compensation.

2.Challenging the same, the appellant-claimant has filed the present Civil Miscellaneous Appeal for enhancement of compensation.

3.The learned counsel for the appellant/claimant has submitted that the Tribunal has erred in holding that the appellant / claimant has not proved the disability by evidence. It is also submitted that the Tribunal has erred in not considering the wound certificate and the medical reports filed by the appellant in proper perspective. Stating so, the learned counsel for the appellant prayed for enhancement of compensation.

4.The learned counsel for the third respondent Insurance Company has submitted that the Tribunal has correctly considered the materials and evidence available on record and has correctly awarded the compensation, which is just, fair and reasonable and hence the judgment of the Tribunal does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant / claimant and the learned counsel for the third respondent Insurance Company and perused the materials available on record carefully and meticulously.

6.The Tribunal has awarded a sum of Rs.10,000/- towards pain and suffering, taking note of the fact that the claimant suffered only two simple injuries as per Ex.P2-Wound Certificate. The Tribunal has also awarded a sum of Rs.7,000/- towards medical expenses, based on Exs.P10 and P16 - Medical Bills and a sum of Rs.1,000/- each towards transportation expenses and extra nourishment. The Tribunal has correctly considered the materials and evidence available on record and has correctly awarded reasonable compensation towards the above heads and hence the same does not require any interference.

7.In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

8.The third respondent Insurance Company is directed to deposit the compensation with interest, as ordered by the Tribunal, 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 appellant / claimant shall withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(AD-IV)

//True Copy//

Sub Assistant Registrar

KM

To

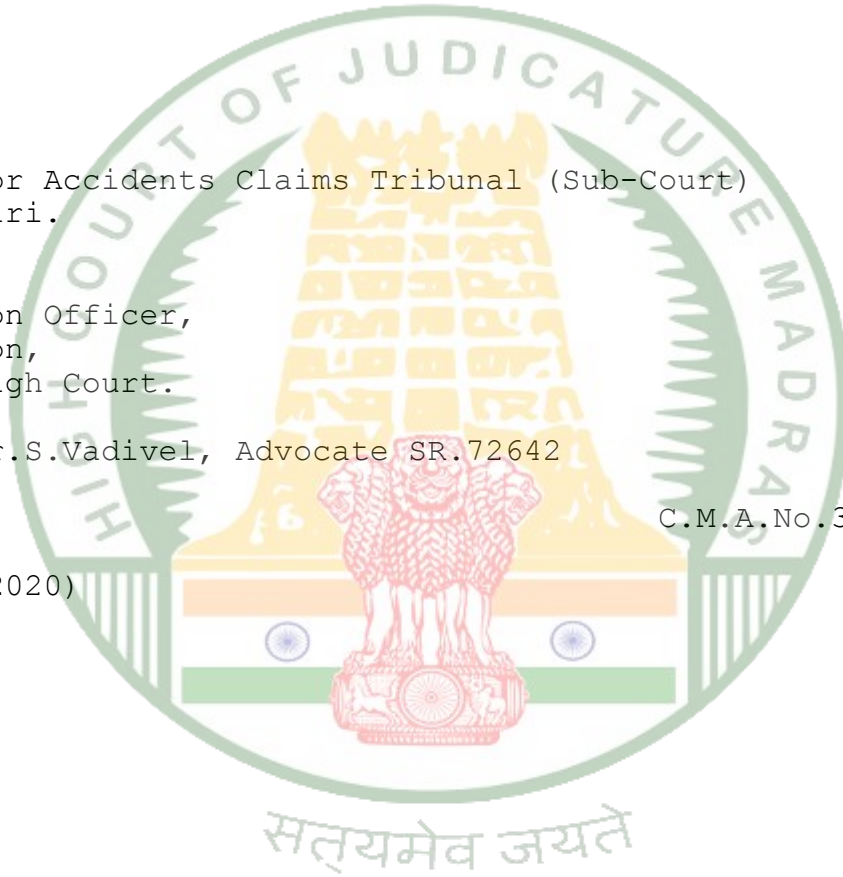
1.The Motor Accidents Claims Tribunal (Sub-Court)
Sankagiri.

Copy to:
The Section Officer,
VR Section,
Madras High Court.

+1cc to Mr.S.Vadivel, Advocate SR.72642

C.M.A.No.3268 of 2008

BS(CO)
CB(11/02/2020)



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