

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1648 of 2009

Velmurugan ...Appellant/ Petitioner
.Vs.

1.Sunitha Chada
2.The New India Assurance Co. Ltd.,
No.80, Arcot Road, Porur,
Chennai - 600 116. ...Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 12.12.2008 passed in MCOP.No.377 of 2007 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court, Fast Track Court - II, Poonamallee.

Appellant: Mr.J.Mahalingam

R1 : No appearance

R2 : Mr.M.Krishnamoorthy

JUDGMENT

The appellant is the claimant in MCOP.No.377 of 2007 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court, Fast Track Court - II, Poonamallee. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.3,00,000/- for the injuries sustained by him in a road accident on 15.02.2007. सत्यमेव जयते

2. The case of the claimant in nutshell is as follows:

On 15.02.2007, he was riding his two wheeler bearing Registration No. TN 07 U 9058 along Santhome High Road and at about 10.30 a.m, when he stopped his vehicle at Santhome High Road junction signal, a speeding car bearing Registration No. TN 20 AY 3292 hit his motorcycle from behind, as a result whereof, he fell down and sustained injuries all over his body.

3. According to the claimant, the rash and negligent driving of the driver of the car bearing Registration No. TN 20 AY 3292 belonging to the first respondent was the cause of the accident and that since the said car was insured with the second respondent, New India Assurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation.

4. The first respondent, owner of the car remained absent before the Tribunal and therefore, she was set ex-parte. The second respondent, New India Assurance Company Limited, contested the claim petition on all the grounds available to the insured and the learned Additional District and Sessions Judge / Motor Accidents Claims Tribunal, Fast Track Court - II, Poonamallee after analysing the evidence on record, awarded a compensation of Rs.77,000/- together with interest at the rate of 7.5% per annum to the claimant. Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr.J.Mahalingam, learned counsel appearing for the appellant / claimant would contend that even though Dr.Saichandran (PW2) had assessed the partial permanent disability of the claimant as 40%, the Tribunal had awarded meagre amount of Rs.40,000/- towards partial permanent disability. He would further contend that no amount was awarded towards loss of income and prayed for enhancement of compensation.

6. Per contra, Mr.M.Krishnamoorthy, learned counsel appearing for the second respondent / New India Assurance Company Limited, contended that the award passed by the Tribunal is based on the nature of injuries sustained by the claimant and therefore, the same need not be disturbed at this stage.

7. In the instant case, the claimant had sustained a fracture on his left leg tibia bone and he initially took treatment at Government Hospital, Royapettah. Thereafter, he took native treatment at Puthur. In the claim petition, it is contended that the claimant was aged 27 years and was a mechanic by profession. The Tribunal awarded a just compensation of Rs.77,000/- for the claimant and by no stretch of imagination, the award can be said to be meagre, considering the nature of injuries sustained by him. Therefore appeal fails and is dismissed.

8. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The order passed by the Tribunal is upheld.

(iii) The first respondent and second respondent / New India Assurance Company Limited are directed to deposit the entire compensation amount awarded by the Tribunal i.e., Rs.77,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum, to the credit of MCOP.No.377 of 2007 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court, Fast Track

Court - II, Poonamallee within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the claimant is at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

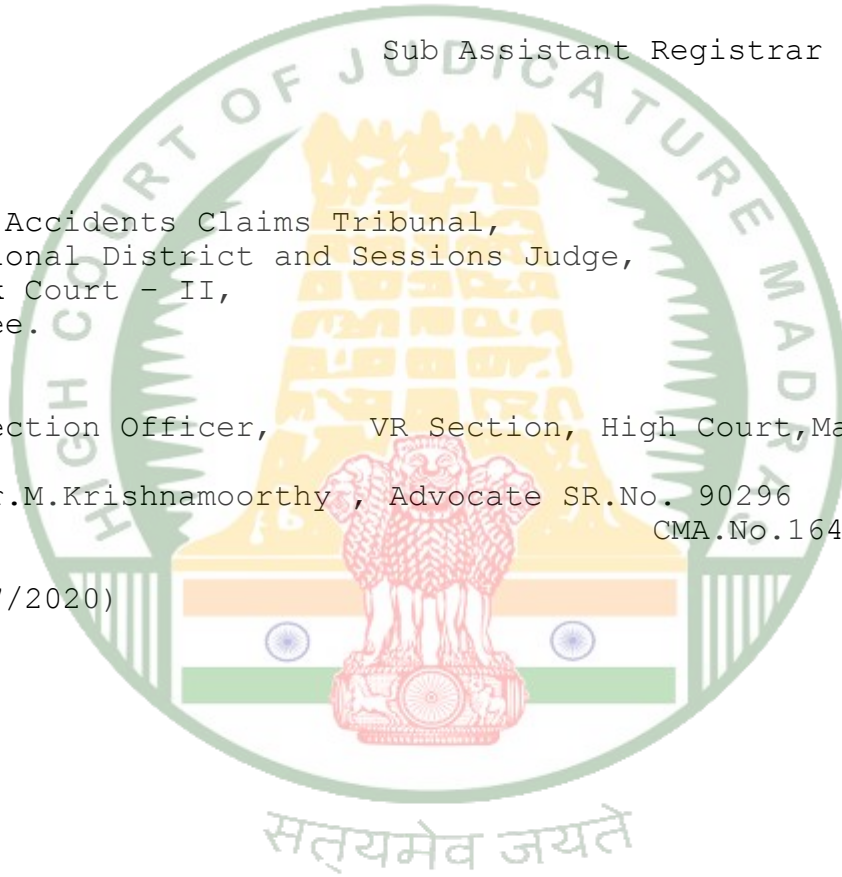
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To

The Motor Accidents Claims Tribunal,
The Additional District and Sessions Judge,
Fast Track Court - II,
Poonamallee.

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

+1cc to Mr.M.Krishnamoorthy , Advocate SR.No. 90296
CMA.No.1648 of 2009

PVS
A.SK(20/07/2020)



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