

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2019

CORAM

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.900 of 2008
and
M.P.No.1 of 2008

United India Insurance Company Limited,
38, Anna Salai,
Chennai - 600 0002. ... Appellant

..vs..

1. S.Kothandan
2. S.Ramachandran Rajiv ... Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree, dated 13.02.2007 made in M.C.O.P.No.1042 of 2004 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Tiruvallur.

For Appellant : Mr.C.Paranthaman

J U D G M E N T

This appeal is filed by the Insurance Company as against the award passed by the Tribunal in M.C.O.P.No.1042 of 2004 dated 13.02.2007, wherein the Insurance Company/appellant was directed to pay a sum of Rs.1,17,000/- with interest at the rate of 7.5% from the date of petition till the date of deposit to the injured/claimant/first respondent herein.

2.It is the case of the first respondent / claimant that on 31.07.2004 at about 14.30 hours, when he was going in the motorcycle bearing Reg.No.TN-23-L-5653 on the Sholingar to R.K.Pet Road near A.L.Swamy Nagar, the lorry bearing Reg.No.TN-20-R-0882 belonging to the second respondent and insured with the appellant Insurance Company, came from the opposite direction in a rash and negligent manner and dashed against the motorcycle. Due to the impact, the first respondent sustained grievous injuries. The first respondent filed a claim petition before the Tribunal claiming a sum of Rs.4,00,000/- as compensation. On consideration of the materials and evidence

available on record, the Tribunal awarded a total compensation of Rs.1,17,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Insurance Company has come up with the present appeal.

4.Though this appeal was admitted way back in the year 2008, the appellant has not taken proper steps to serve notice on the other side. However, due to efflux of time, this appeal is taken up for final disposal on merits.

5.The learned counsel for the appellant Insurance Company has submitted that the accident had occurred only due to the rash and negligent driving of the rider of the motorcycle. He further submitted that the amounts awarded by the Tribunal towards various heads are excessive and exorbitant.

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

7.While dealing with the aspect of negligence, the Tribunal has taken note of the evidence of PW.1, the injured himself, PW.2-Supervisor of M/s.Brakes India Limited and Ex.P1-First Information Report, as regards the manner of accident and found out that the deposition of these witnesses corroborates with Ex.P1. Thereafter, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the lorry, which finding this Court is not inclined to interfere as the same has been rendered on facts.

8.With regard to the quantum of compensation, the Tribunal has considered the medical history details of the claimant and has quantified the compensation at Rs.1,17,000/- more particularly placing reliance on the evidence of P.W.3-Doctor who had stated that the claimant was implanted with rod below the right thigh and there was shortening of the right leg by 1½ inches and because of the same, the claimant's knee movement has been restricted to 85 degrees. Taking all these into consideration, the Tribunal has awarded the compensation of Rs.1,17,000/- with interest at the rate of 7.5% per annum from the date of petition, which in the opinion of this Court is nothing but just. This Court finds absolutely no reason to interfere with such an award passed by the Tribunal.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant Insurance Company is directed to deposit the award amount with interest and costs, as ordered by the Tribunal, after deducting the amount if any already

deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

arb/srk

To

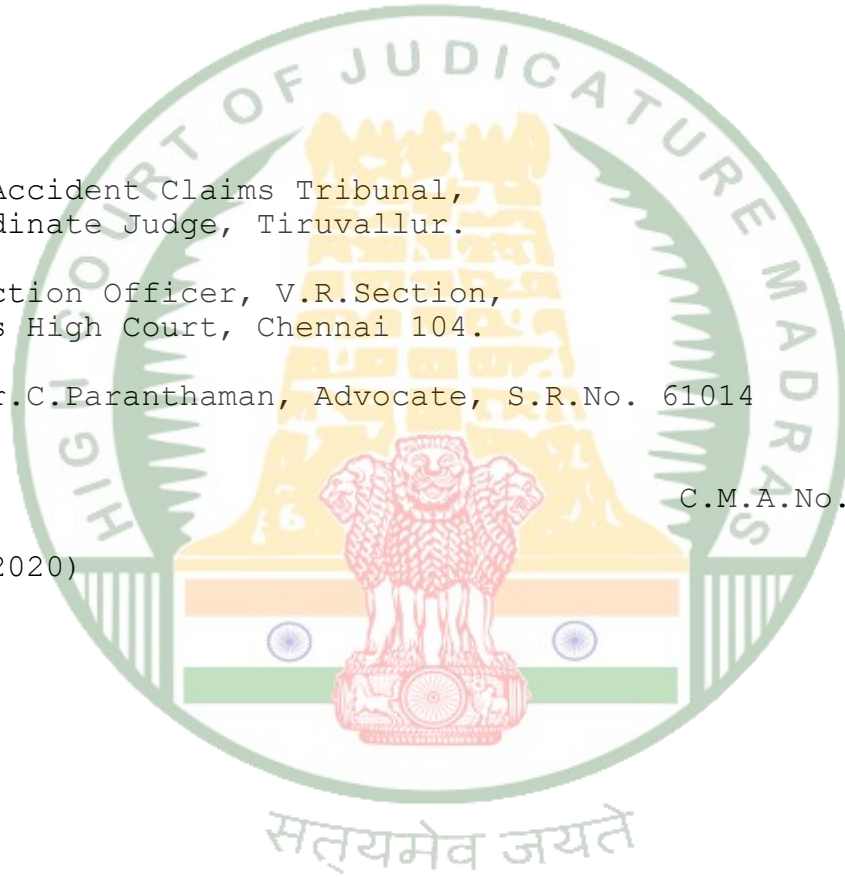
1. Motor Accident Claims Tribunal,
Subordinate Judge, Tiruvallur.

2. The Section Officer, V.R.Section,
Madras High Court, Chennai 104.

+1cc to Mr.C.Paranthaman, Advocate, S.R.No. 61014

C.M.A.No.900 of 2008

VG II(CO)
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