

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3380 of 2009

B.Gopalakrishnan

... Appellant

1.M.Sagadevan

(R1 was set exparte in the Trial Court).

2.United India Insurance Co.Ltd.,
Motor Third Party Claims Office,
No.134, Greams Road,
Chennai-6.

... Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 06.08.2009 made in MACTOP No.1455 of 2005 on the file of the II Judge, Motor Accidents Claims Tribunal (Small Causes Court), Chennai.

For Appellant : M/s.C & K Law Firm

For Respondents : Mr.C.Paranthaman for R2

JUDGMENT

The case in brief, is as follows:

On 21.01.2005 at about 19.30 hours, the appellant was proceeding in the motorcycle bearing Reg.No.TN-07-AC-7551 and was nearing Okkiyampettai Bridge, Chennai. At that time, the Mahindra Van bearing Reg.No.TN-22-J-9567, belonging to the first respondent herein and insured with the second respondent Insurance Company, came from the opposite direction in a rash and negligent manner and dashed against the appellant. Due to the said impact, the appellant-claimant sustained grievous injuries. The appellant filed a claim petition before the Tribunal claiming a sum of Rs.3,50,000/- as compensation. Considering the materials and evidence available on record, the Tribunal awarded a sum of Rs.1,22,961/- with interest at the rate of 9.5% 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 failed to consider the income of the injured while awarding compensation towards loss of earnings. He also submitted that the compensation awarded by the Tribunal towards other heads are very meagre and hence the same requires enhancement.

4.The learned counsel for the second 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 second respondent Insurance Company and perused the materials available on record carefully and meticulously.

6.The Tribunal has awarded a sum of Rs.6,961/- towards medical expenses based on Ex.P3-Medical Bills, which is an actual expenditure. The Tribunal has also awarded a sum of Rs.30,000/- towards 20% permanent disability at the rate of Rs.1,500/- per percentage of disability. In this regard, even though as per Ex.P5-Disability Certificate, the percentage of disability has been fixed at 50%, considering the nature of injuries, the Tribunal has correctly reduced it to 20%. Further, the Tribunal has awarded a sum of Rs.36,000/- towards pain and suffering, considering the fact that the claimant sustained 2 grievous injuries and 8 simple injuries. The Tribunal has also awarded a sum of Rs.24,000/- for loss of earning, since the injured would have been disabled from attending his avocation for a period of four months, due to the accident and by taking a view that he would have earned not less than Rs.6,000/- as a Real Estate Dealer. The Tribunal has also awarded a sum of Rs.10,000/- each towards loss of amenities and loss of expectation of life, Rs.2,000/- each towards transportation expenses and extra nourishment and Rs.1,000/- each towards damage to clothes and other expenses. 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 second 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(CO)

//True Copy//

Sub Assistant Registrar

To

The II Judge, Motor Accidents Claims Tribunal
(Small Causes Court), Chennai.

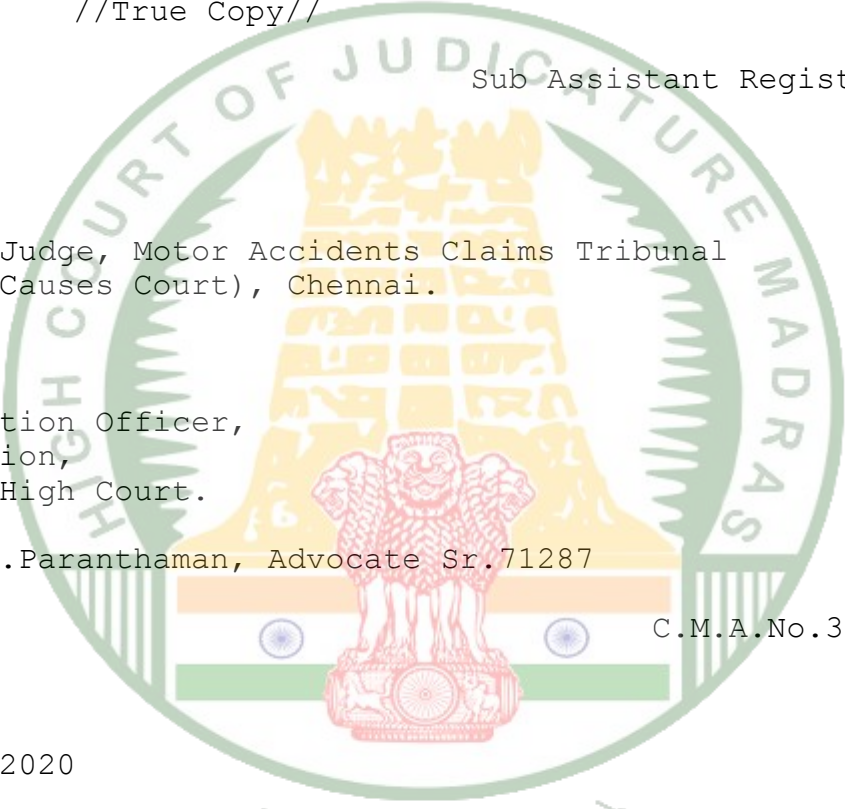
Copy to

The Section Officer,
VR Section,
Madras High Court.

+1cc to Mr.Paranthaman, Advocate Sr.71287

C.M.A.No.3380 of 2009

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srg 19/10/2020

The seal of the Madras High Court is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital in front of it. The lion capital is set against a background of the Indian national flag's saffron, white, and green horizontal stripes. The words "HIGH COURT OF JUDICATURE MADRAS" are inscribed in a green circle around the central image. Below the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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