

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.NO.126 OF 2012

B.Vimalraj

.. Appellant/Petitioner

Vs.

1. V.Uma

2. The New India Assurance Co.Ltd.,
No.46, Moore Street, "Regional mansion",
Chennai - 600 001. .. Respondents/Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 12.09.2011 in M.A.C.T.O.P.No.3466 of 2002 on the file of the V Small Causes Court (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.S.N.M.Muthurajan

For Respondents : Mrs.R.Sreevidhya
for R2
R1 - Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-claimant against the Judgment and Decree dated 12.09.2011 in M.A.C.T.O.P.No.3466 of 2002 on the file of the Motor Accident Claims Tribunal/V Small Causes Court, Chennai, seeking enhancement of compensation.

2. The appellant/claimant has filed the claim petition before the Tribunal seeking total compensation of Rs.6,00,000/- for the accident that took place on 13.07.2002. According to the appellant/claimant, on 13.07.2002, at about 13.00 hours, he was travelling as carrier rider in a cycle from Adambakkam to St.Thomas Mount along Adambakkam Karuneegar street, New Bridge from east to west direction, and the cycle was pedaled by one K.Rajesh. While they were proceeding near the New Bridge, a Lorry bearing Registration No.TN-69-Y-7029 driven by its driver

in a rash, speed and negligent manner came from behind and dashed against the cycle, as a result of which, the appellant/claimant sustained grievous injuries.

3. Before the Tribunal, on the side of the appellant/claimant, PW1 and PW2 were examined and Exs.P1 to P8 were marked. On the side of the respondents, no oral or documentary evidence was marked.

4. The learned Motor Accident Claims Tribunal, V Court of Small Causes, Chennai, after analysing the evidence and records, fixed the liability on the respondents and awarded compensation of Rs.1,51,500/- together with interest at the rate of 7.5% per annum to the appellant/claimant. Not being satisfied with the quantum of compensation, the injured has come forward with this Civil Miscellaneous Appeal.

5. The learned counsel for the appellant submitted that the appellant had sustained compound fracture of right thigh bone, fracture in right fore arm bone, head injuries and facial injuries. The learned counsel also submitted that the appellant/claimant underwent surgeries and open reduction and further, external fixation was also done. However, the Tribunal without considering the same, awarded very meagre compensation. He therefore, prayed for enhancing the compensation under other heads.

6. The learned counsel appearing for the second respondent submitted that the award amount of Rs.1,51,500/- is just and proper and the same does not require interference by this Court.

7. This Court has heard the arguments on both sides and perused the materials available on record.

8. From the materials available on record, it is seen that the appellant/claimant sustained injuries due to the accident that took place on 13.07.2002. It is also seen that the appellant/claimant was admitted at Sri Balaji Hospital on 14.07.2002 and discharged on 20.07.2002. References are available from Discharge Summary (Ex.P2) that the appellant / claimant sustained compound fracture of right femur with fracture of neck of radius right side. The Tribunal after analysing the evidences and records in detail, fixed the disability at 35% and awarded a sum of Rs.70,000/- towards permanent disability, which cannot be said to be meagre. A perusal of the compensation awarded under other heads also shows that they are just and reasonable. Hence, this Court is not inclined to interfere with the award passed by the Tribunal.

9. In the result, the Civil Miscellaneous Appeal is

dismissed, confirming the award granted by the Tribunal. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kmm

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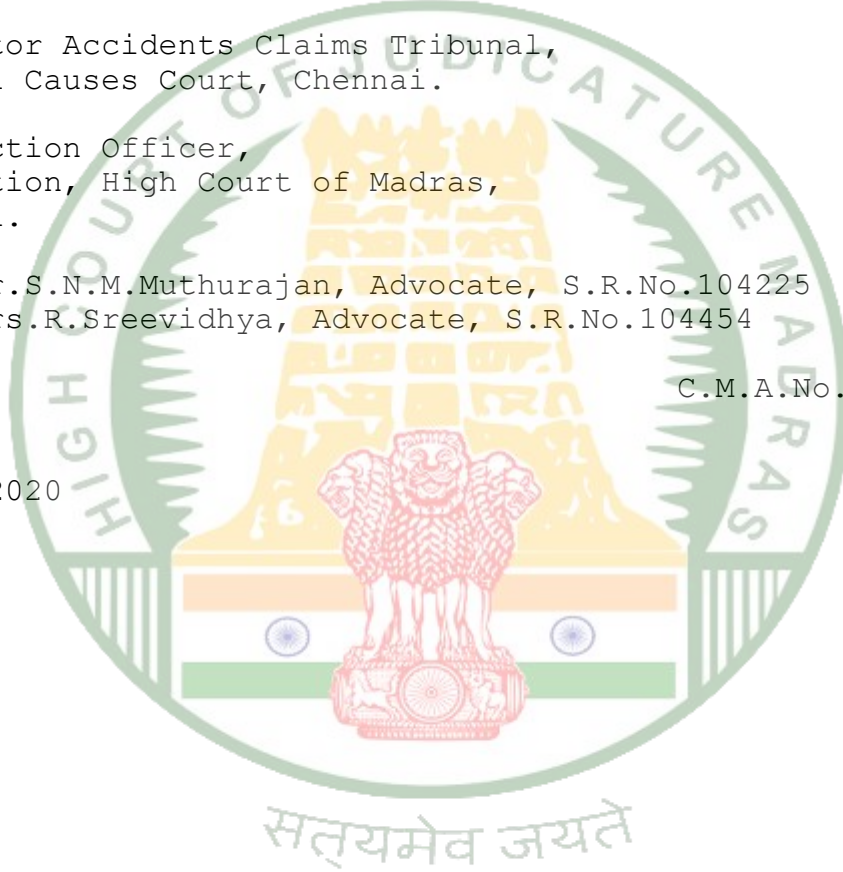
1. The Motor Accidents Claims Tribunal,
V Small Causes Court, Chennai.
2. The Section Officer,
VR Section, High Court of Madras,
Chennai.

+1cc to Mr.S.N.M.Muthurajan, Advocate, S.R.No.104225

+1cc to Mrs.R.Sreevidhya, Advocate, S.R.No.104454

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NMI (CO)
CS/31/12/2020



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