

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2554 of 2011

P.S.Rajendran

.. Appellant/Petitioner

Vs.

1.The Chief Engineer,
Distribution Tamil Nadu Electricity Board,
No.801, Anna Salai, Chennai-2.

2.The New India Assurance Company Limited,
No.45, Moore Street,
Second Lane Bench, Chennai-1 .. Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 20.04.2010 and made in MACT.O.P.No.3213 of 2006 on the file of the Motor Accidents Claims Tribunal, Chennai (In the VI Court of Small Causes, Chennai).

For Appellant : Ms.M.Malar

For R1 : Exparte before the Tribunal

For R2 : Mrs.R.Sreevidhya

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 20.04.2010 and made in MACT.O.P.No.3213 of 2006 on the file of the Motor Accidents Claims Tribunal, Chennai (on the VI Court of Small Causes, Chennai).

2. On 10.08.2004 at about 1.30 p.m when the appellant/claimant was walking at SISI Training Company Centre near State Bank of India, at that time, the 1st respondent's van bearing Registration No.TN-01-K-3610 came in a rash and negligent manner and hit the appellant/claimant. As a result,

the appellant/claimant sustained grievous injuries. The driver of the van was solely responsible for the accident. The 1st respondent being the owner of the vehicle and the 2nd respondent-Insurance Company being the insurer of the vehicle are liable to compensate the appellant/claimant. The appellant/claimant has claimed a total compensation of Rs.2,00,000/- from the respondents.

3. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.55,000/- with interest at 7.5% per annum.

4. Heard both sides.

5. After hearing both sides and taking note of the fact that P.W.2 Doctor has stated that the appellant/claimant had sustained fracture of left tibia upper end and had undergone surgery whereby three screws were inserted and the fracture is now united with widening and ups and downs, there is swelling at the left leg knee joint, restriction of movement to 30 degree, the appellant/claimant is facing difficulty to fold and rotate leg, thereby assessed 35% partial permanent disability. P.W.2 further deposed that there is degeneration of L5 vertebra and therefore suffering permanent pain, therefore assessed 35% partial permanent disability. Exhibit P5 is the Disability Certificate, Exhibit P6 is the X-ray film.

6. The learned counsel for the 2nd respondent-Insurance Company has argued that the appellant/claimant sustained fracture of tibial bone for which the Division Bench of this Court in 2009 TNMAC Page 88 awarded only 20% partial permanent disability.

7. After taking into consideration of the submissions of the learned counsel for the appellant, this Court is of the considered view that the compensation arrived at by the trial Court does not warrant any interference. However, a sum of Rs.40,500/- is awarded by this Court under the head of "disability". A sum of Rs.1,000/- awarded by the Trial Court needs interference and therefore, a sum of Rs.1,000/- awarded under the head of "Medical Expenses". A sum of Rs.6,000/- and a sum of Rs.2,000/- have been awarded by the trial Court needs interference and therefore, a sum of Rs.10,000/- and Rs.10,000/- are enhanced by this Court under the head of "Loss of income" and "Transportation"-. A sum of Rs.1,000/- awarded by the trial Court needs interference and therefore, a sum of Rs.7,000/- is enhanced by this Court under the head of "Extra Nourishment". A sum of Rs.10,000/- has been awarded by this trial Court needs interference and therefore, a sum of Rs.20,000/- is enhanced by this Court under the head of "Pain and suffering". A sum of

Rs.10,000/- has been awarded by this Court under the head of "attender charges" and hence, over and above, the compensation amount of Rs.98,500/- is hereby granted. The amount awarded is hereby tabulated:

Heads	Trial Court	High Court
Loss of income for 2 months at the rate of Rs.3000/- per month	Rs. 6,000/-	Rs. 10,000/-
Transportation	Rs. 2,000/-	Rs. 10,000/-
Extra Nourishment	Rs. 1,000/-	Rs. 7,000/-
Medical Expenses	Rs. 1,000/-	Rs. 1,000/-
Pain and suffering	Rs.10,000/-	Rs. 20,000/-
Disability of 35% at the rate of Rs.1000/- per disability	Rs.35,000/-	Rs. 40,500/-
Attender charges	----	Rs. 10,000/-
Total	Rs. 55,000	Rs. 98,500

8. The learned counsel for the Insurance Company stated that the entire award amount has already been deposited and the Insurance Company shall deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this judgment. Interest at the rate of 7.5% with regard to the enhancement of amounts shall accordingly be calculated for payment.

9. With the above enhancement in the amount awarded by the Tribunal, this Civil Miscellaneous Appeal is allowed. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

nvi

To

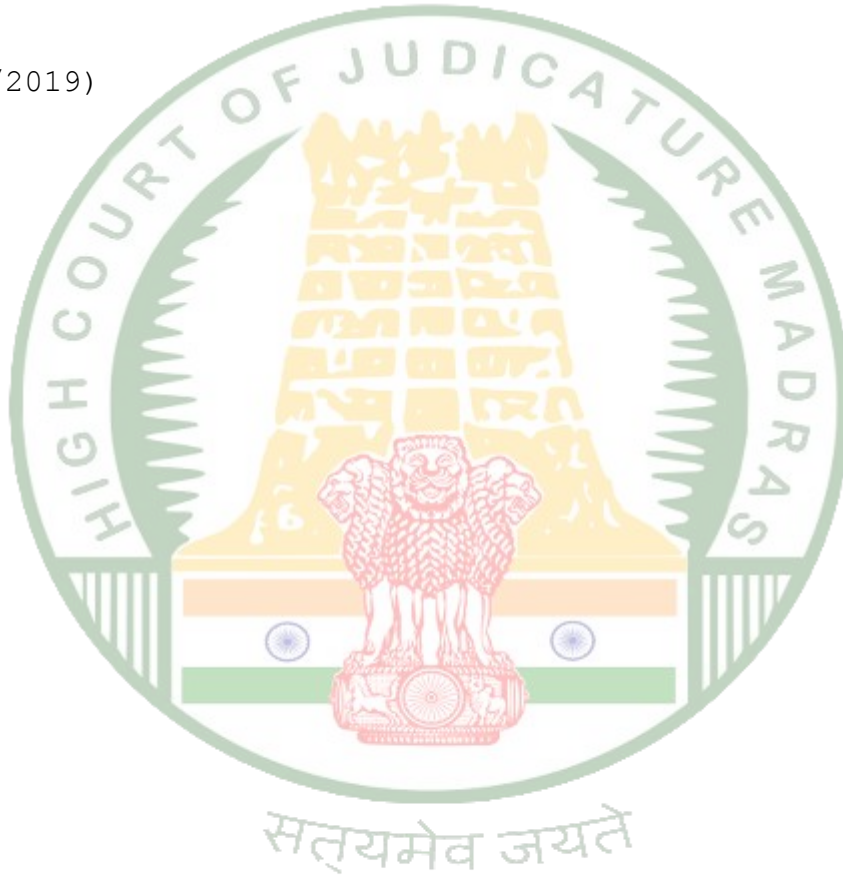
1. The Motor Accidents Claims Tribunal, Chennai
(In the VI Court of Small Causes, Chennai).

2. The Section Officer, VR Section, Madras High Court.

+1cc to Mr.S.Manohar, Advocate SR.No.13596

C.M.A.No.2554 of 2011

CNR (CO)
GMY (20/05/2019)



WEB COPY