

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.10.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.862 of 2015 and M.P.No.1 of 2015
and
C.M.A.No.863 of 2015

M/s.United India Insurance Co.Ltd.,
No.64, Armenian Street,
Chennai. - 600 001.

... Appellant in both appeals/
Respondent No.2

Vs

1.D.Ram
2.Kannan

... Respondents in CMA No.
862 of 2015/Claimant & Ist
Respondent

1.Subramani
2.Kannan

... Respondents in CMA No.
863 of 2015/Claimant & Ist
Respondent

Appeals under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 02.09.2013 made in MCOP Nos.1419 &
1420 of 2011, on the file of the Motor Accident Claims Tribunal,
Small Causes Court V, Chennai.

In both appeals

For Appellant : Mr.J.Chandran

For R1 : Mr.Thambi

For R2 : No Appearance

COMMON JUDGMENT

These appeals arise out of the common award passed by the
Motor Accident Claims Tribunal, V Small Causes Court, Chennai in
MCOP.Nos.1419 & 1420 of 2011 dated 02.09.2013, in and by which,
the injured/first respondent in the appeals were awarded a sum
of Rs.25,000 and Rs.1,55,000/- respectively, as compensation for
the injuries sustained by them in a road traffic accident.

2.The brief facts of the case, are as follows:

On 19.01.2011 at about 10.10 hours, while the first respondent in CMA No.862 of 2015 was travelling as a pillion rider in the motorcycle bearing Reg.No.TN-05-AE-7311. When the motorcycle reached near Dr.Ambedkar College Road, opposite to P1 Pulianthoppe Police Station, the first respondent in CMA No.863 of 2015 was crossing the road. Without noticing the same, the rider of the motorcycle came in a rash and negligent manner and dashed against him. Due to the impact, the first respondent in both these appeals, sustained grievous injuries. They filed claim petitions before the Tribunal, claiming a sum of Rs.75,000/- and Rs.3,00,000/- respectively, as total compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.25,000/- and Rs.1,55,000/- with interest at the rate of 7.5% per annum from the respective dates of petitions.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeals.

4.The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erroneously held that the accident had occurred solely due to the rash and negligent act of the rider of the motorcycle. He also submitted that though there is no medical evidence towards injuries sustained by the first respondent in these appeals, the Tribunal has wrongly awarded huge compensation towards injuries sustained by them.

5.The learned counsel for the first respondent in these appeals / claimants has submitted that the Tribunal has rightly considered the materials and evidence available on record and had rendered a finding that the accident had occurred only due to the rash and negligent rider of the motorcycle. It is also his submission that the compensation amounts awarded by the Tribunal are just, fair and reasonable and hence the same do not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.The Tribunal, taking into consideration Ex.P1-First Information Report, Ex.P2-Discharge summary in respect of the injured Subramani (pedestrian), Ex.P5-Disability Certificate and Ex.P4-X-ray of the injured Subramani, came to the conclusion

that the accident had occurred only due to the rash and negligent riding of the rider of the motorcycle belonging to the second respondent. This Court is not inclined to interfere with the said factual finding rendered by the Tribunal.

8. In respect of the quantum of compensation relating to MCOP No.1419 of 2011 (CMA No.862 of 2015), the Tribunal came to the conclusion that the injured-D.Ram was earning a sum of Rs.6,000/- per month as Two Wheeler Mechanic. As per Ex.P3/OP chit, it is seen that the first respondent sustained simple injuries. Considering these aspects, the Tribunal has awarded a consolidated sum of Rs.25,000/- towards loss of income, transport, extra nourishment, damage to clothes, medical expenses, attender charges, loss of amenities, pain and suffering and disability. This Court is of the view that since the injuries sustained by the injured are simple in nature, the Tribunal has rightly awarded Rs.25,000/- and hence the same does not require any interference by this Court.

9. In respect of the quantum of compensation relating to MCOP No.1420 of 2011 (CMA No.863 of 2015), the Tribunal has awarded a sum of Rs.9,000/- (Rs.4,500/- x 2) for two months towards loss of income, Rs.5,000/- towards Transportation, Rs.5,000/- towards extra nourishment, Rs.1,000/- towards damages to clothes, Rs.5,000/- towards medical expenses, Rs.5,000/- towards attender charges, Rs.50,000/- towards pain and suffering, Rs.25,000/- towards loss of amenities and Rs.50,000/- towards 25% disability at the rate of Rs.2,000/- per percentage of disability. The Tribunal has relied upon the exhibits, evidence of witnesses, O.P.Chits, treatment records, percentage of disability assessed by the Doctor and all other aspects in a proper perspective and has awarded the above amounts under various heads to the claimant. Further, this Court is of the considered view that the amounts awarded towards these heads are reasonable and justifiable and hence the same are confirmed.

10. In the result, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amounts as ordered by the Tribunal with interest and costs, after deducting the amounts 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 first respondent / claimant in these appeals are permitted to withdraw

their respective shares, on making proper application before the Tribunal.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

gbi/km

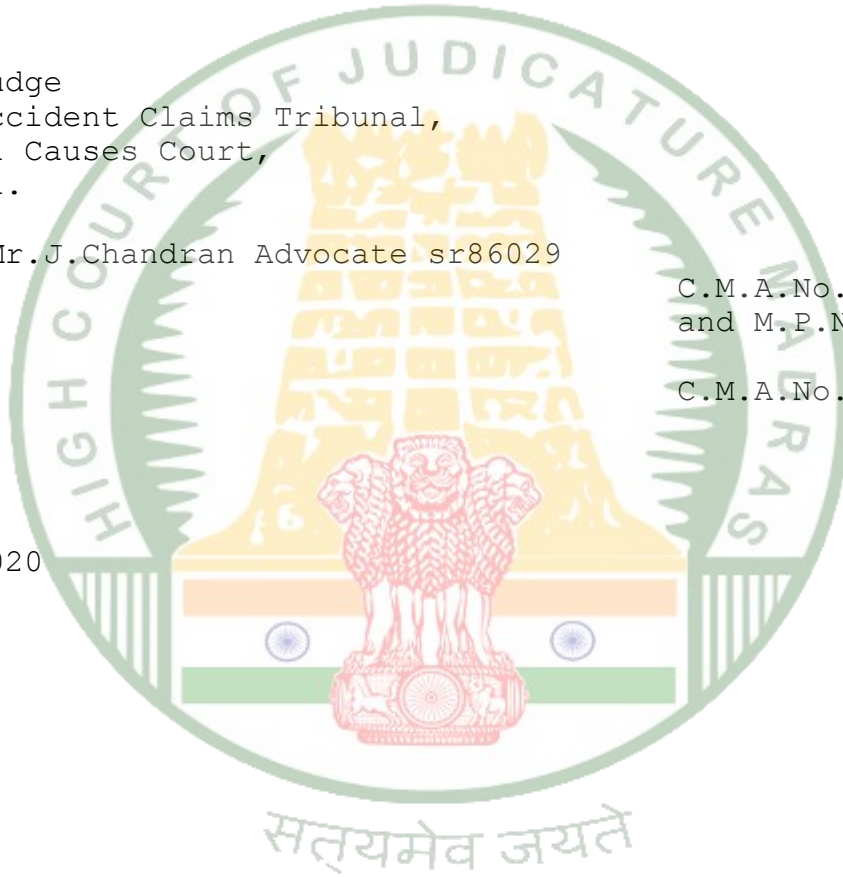
To

1.The V Judge
Motor Accident Claims Tribunal,
V Small Causes Court,
Chennai.

+1 cc to Mr.J.Chandran Advocate sr86029

C.M.A.No.862 of 2015
and M.P.No.1 of 2015
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