

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.3195 of 2019

K.Subramani

.. Appellant/Claimant

Vs.

1. S.Suresh Ruban

2. Tata AIG Insurance Company Ltd.,
"Jaya Enclave", 3rd Floor,
1057, Avinashi Road,
Coimbatore.

.. Respondents/Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.08.2017 made in M.C.O.P.No.464 of 2013 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Coimbatore.

For Appellant : Mr.K.S.Karthik Raja

For R2 : Ms.C.Harini

for M/s.M.B.Gopalan Associates

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 23.08.2017 made in M.C.O.P.No.464 of 2013 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Coimbatore.

2.The appellant is claimant in M.C.O.P.No.464 of 2013 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Coimbatore. He filed the said claim petition claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 01.09.2012.

3.The learned counsel appearing for the appellant contended that the Tribunal erred in dismissing the claim petition of the appellant disbelieving the case of the claimant. The Tribunal without considering the nature of injuries sustained by the appellant by verifying the accident register and also the treatment of the appellant as in-patient. The dismissal of the claim application by the Tribunal is highly improper. The Tribunal failed to see that the accident as narrated by the appellant and as rightly framed in the charge sheet are not considered. Inspite of the fact that the 1st respondent admitted the accident and paid fine admitting his guilt before the Criminal Court. The judgment of the Tribunal is without any reason. The Tribunal ought not to have relied upon the recitals in the Ex.R1/accident register, which was given by the victim immediately and he was also not in a position to say anything in a perfect manner. The Tribunal cannot expect anything from the victim like a ordinary man. Hence the appellant sought for setting aside the judgment of the Tribunal.

4.Per contra, the learned counsel appearing for the 2nd respondent contended that the appellant did not suffer any injury as alleged by him. The vehicle was not involved in the accident. In the FIR, Accident Register and evidence of appellant, there are contradictions with regard to the manner of accident. The appellant has not proved the manner of accident. The appellant has not explained the delay in lodging the FIR. The Tribunal has considered all the materials on record and dismissed the claim petition rightly and hence, prayed for dismissal of the appeal.

5.Heard Mr.K.S.Karthik Raja, learned counsel appearing for the appellant as well as the Ms.C.Harini for M/s.M.B.Gopalan Associates, learned counsel appearing for the 2nd respondent/Insurance Company and perused the materials available on records.

6.From the materials on record, it is seen that FIR was lodged after 6 days of accident. The contention of the learned counsel appearing for the 2nd respondent that due to the delay in lodging the FIR, the claim petition must be dismissed, is not acceptable. But, at the same time, it has to be taken note if the delay in lodging the FIR was not explained by the appellant. The Hospital authority also did not inform about the accident. There is contradiction in the FIR, Accident Register and evidence of the appellant as P.W.1. The Tribunal considered all the above facts in entirety and considered that there is suspicious about the accident and involvement of the vehicle as alleged by the 2nd respondent and accepted the contention of the 2nd respondent that no accident occurred as alleged by the

appellant, dismissed the claim petition. This Court is of the considered view that there is no error in the said finding, warranting interference by this Court.

7.In the result, the appeal is dismissed. No costs.

Sd/-
Assistant Registrar(AD-IV)

//True Copy//

Sub Assistant Registrar

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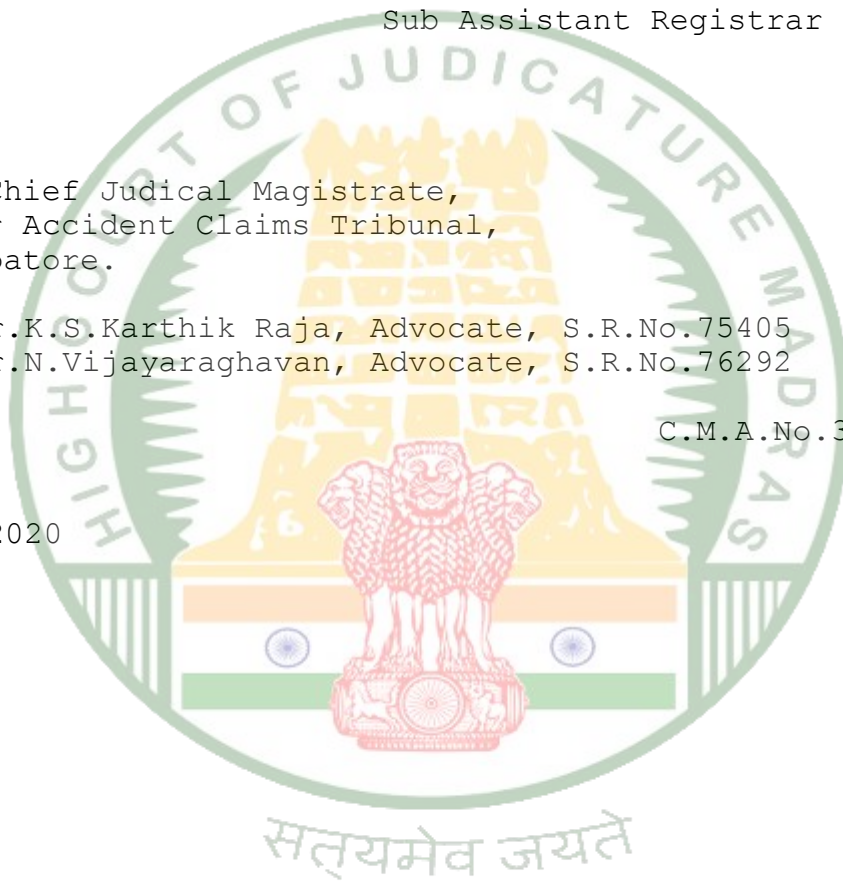
1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Coimbatore.

+1cc to Mr.K.S.Karthik Raja, Advocate, S.R.No.75405

+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.76292

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