

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.37 of 2004

A.Munuswami

... Appellant/Petitioner

Vs.

1.R.Mohan

2.United India Insurance Co., Ltd.,
Motor Third Party Claims Office,
No.38, Anna Salai,
Chennai 600 002.

... Respondents/Resondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 27.06.2003 in M.C.O.P.No.484 of 1994 on the file of Motor Accident Claims Tribunal, III Judge, Court of Small Causes, Chennai.

For Appellant : Mr.J.Mahalingam

For Respondent 2: Mr.S.Arunkumar

J U D G M E N T

According to the appellant/claimant, he met with an accident on 15.09.1992, while walking on Besant Road and sustained grievous injuries all over the body, due to the rash and negligent driving on the part of the driver of the Car bearing Registration No.TNY-5598 belonging to the first respondent herein and insured with the second respondent insurance company. Claiming a compensation of Rs.4,00,000/-, he filed a claim petition. The Tribunal, on appreciation of the evidence and materials available on record, awarded a total compensation of Rs.1,12,200/- with interest at 9%pa from the date of petition. Feeling aggrieved and being dissatisfied with the quantum so determined by the Tribunal, the appellant/claimant has preferred this Civil Miscellaneous Appeal seeking enhancement of the same.

2.The learned counsel for the appellant submitted that considering the nature of the disability sustained by the appellant/claimant and taking note of the period of treatment undertaken by him, the Tribunal ought to have awarded the entire claim made by him, whereas it has erred in awarding a lesser sum

of Rs.1,12,200/- as total compensation, which has to be enhanced substantially.

3.Per contra, the learned counsel for the second respondent submitted that based on the evidence and materials available on records, the Tribunal has awarded the just compensation and hence, the same does not call for any interference by this Court.

4.Heard both sides and perused the records.

5.This is the claimant's appeal seeking enhancement of the compensation so awarded by the Tribunal. Hence, there is no requirement for this Court to go into the questions on negligence and liability of the second respondent insurance company.

6.P.W.1/appellant/claimant claimed a compensation of Rs.4,00,000/-. According to him, he was aged 43 years and was working as machine operator and his salary was Rs.900/- per month. He deposed in his evidence that in the accident, he sustained fracture in right femur, right leg below the knee and left Collies, besides receiving head injury, loss of hearing and other serious multiple injuries all over the body. The doctor who treated him, was examined as P.W.2, who supported the testimony of P.W.1 with regard to fracture and injuries and who issued Ex.P3 disability certificate to the tune of 45%. The Tribunal, based on the said evidence and materials, has awarded Rs.45,000/- towards disability, Rs.10,000/- towards medical expenses, Rs.200/- towards loss of income from 15.9.92 to 21.9.92, Rs.1,000/- each towards transport and extra nourishment, Rs.25,000/- towards loss of income, Rs.10,000/- towards loss of future earnings and Rs.20,000/- towards loss of earning power, which, in the opinion of this Court, are fair, just and reasonable and hence, the same are hereby confirmed.

7.However, considering the nature of the injuries sustained by the appellant/claimant and the period of treatment taken by him, this Court is of the view that a sum of Rs.10,000/- awarded by the Tribunal towards pain and suffering appears to be on the lower side and hence, the same is hereby enhanced to Rs.50,000/-. At the same time, the enhanced sum of Rs.40,000/- shall carry interest only at 7.5%pa from the date of filing of this appeal.

8.Accordingly, this Civil Miscellaneous Appeal is partly allowed by enhancing the compensation from Rs.1,12,200/- to Rs.1,52,200/-. No costs.

9.The 2nd respondent / Insurance Company is directed to deposit the entire compensation as awarded by this Court, with interest and costs, after deducting the amount if any already deposited, within a period of four weeks from the date of

receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount lying in the deposit to the Bank Account of the appellant/claimant through RTGS, within a period of one week thereafter.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

srk/rna/rk

To

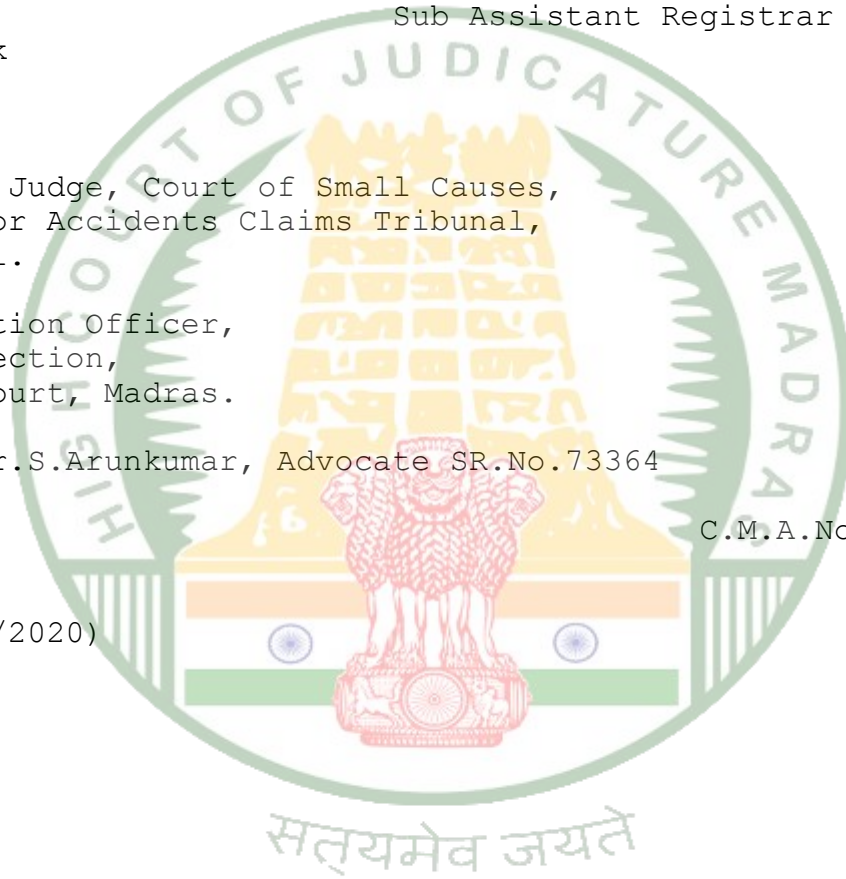
1.The III Judge, Court of Small Causes,
The Motor Accidents Claims Tribunal,
Chennai.

2.The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.S.Arunkumar, Advocate SR.No.73364

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PA (CO)
GMY (12/06/2020)



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