

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

CORAM:

THE HON'BLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

C.M.A.No. 150 of 2009

Thiruvengadam

.... Appellant/Petitioner

Vs.

1.M/s.Mornings Star Lutheran  
Educational Society,  
No.8, Nelson Manickam Road,  
Choolaimedu, Chennai 600 094.

2.The New India Assurance Company Limited,  
No.45, II nd Line Beach, Moore Street,  
Chennai 600 001. .... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 08.12.2006 made in MCOP No.1096 of 2003 on the file of the Motor Accident Claims Tribunal cum III Judge, Court of Small Causes, Chennai.

For Appellant : Mr.A.N.Viswanatha Rao  
Respondents : Mrs.S.R.Sumathi for R-2  
R1- No appearance

J U D G M E N T

This appeal is preferred by the appellant/claimant challenging the judgment and decree dated 08.12.2006 passed in M.C.O.P. No. 1096 of 2003 on the file of the Motor Accident Claims Tribunal-cum-III Judge of Small Causes Court, Chennai.

2. It was the case of the claimant before the Tribunal that on 28.12.2000 at about 18.45 hours, the claimant/appellant was walking in Dr.Besant Road near T.P.Koil Street, a Tata Siera Car bearing Registration No. TN 09 11 1897 came in a rash and negligent manner and hit against the claimant. As a result of that, the claimant was sustained grievous injuries and immediately he was taken to the Government Royapettah Hospital, Chennai and for further treatment, he was admitted as inpatient from 28.12.2000 to 04.01.2001. It is further stated that the accident had happened due to rash and negligent act of the car driver, the claimant has preferred the petition before the claims Tribunal as against the owner and insurer of the car. The claim was resisted by the insurance company/insurer/second

respondent herein before the Tribunal denying the averments made in the claim petition by the claimant.

3. The Tribunal, based on the materials and documents adduced by both sides has held that the accident had happened only on account of negligent driving by the car driver and since the insurance policy was in force, directed the insurer/insurance company to pay the compensation on behalf of the insured. The Tribunal has also quantified the detail compensation at Rs.66,045/- payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

4. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. Heard both sides.

6. The learned counsel for the appellant/claimant submitted that the claimant is not disputing the negligence aspect, but only disputing the quantum awarded by the Tribunal. The Tribunal has awarded compensation towards disability and earning power and has failed to award any amount under the head of loss of income. He further submitted that the award passed under all heads are too low, more particularly under the heads transportation, extra nourishment, pain and sufferings and medical expenses.

7. Per contra, the learned counsel for the second respondent/ Insurance Company submitted that the Tribunal has taken into consideration all the aspects and has awarded the compensation of Rs.66,045/-. He further submitted that the Tribunal has appreciated the documents and has awarded the just compensation which does not require any interference at the hands of this Court.

8. From the materials on record, it is seen that the Tribunal has rightly considered the injuries sustained by the claimant and fixed the disability and earning power together at Rs.40,000/-. Since the Tribunal has awarded a consolidated sum of Rs.40,000/- towards disability and earning power, this Court is of the opinion that there is no need to award any amount towards loss of income. The Tribunal has awarded a sum of Rs.1,000/- each towards transport expenses and extra nourishment and the same are meager and hereby enhanced to Rs.5,000/-, each. The Tribunal has awarded a sum of Rs.8,000/- towards pain and sufferings, which in the considered view of this Court is lesser and hence, a sum of Rs.20,000/- would meet the ends of justice. The amounts awarded by the Tribunal under other heads are

confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

| S.No | Description                | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|------|----------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.   | Disability & earning power | 40,000/-                        | 40,000/-                          | confirmed                              |
| 2.   | Pain and sufferings        | 8,000/-                         | 20,000/-                          | enhanced                               |
| 3.   | Transportation             | 1,000/-                         | 5,000/-                           | enhanced                               |
| 4.   | Extra nourishment          | 1,000/-                         | 5,000/-                           | enhanced                               |
| 5.   | Medical expenses           | 1,545/-                         | 1,545/-                           | confirmed                              |
| 6.   | Attender charges           | 9,000/-                         | 9,000/-                           | confirmed                              |
| 7.   | Mental agony               | 5,000/-                         | 5,000/-                           | confirmed                              |
| 8.   | Loss of leave              | 500/-                           | 500/-                             | confirmed                              |
|      | Total                      | Rs.66,045/-                     | Rs.86,045/-                       | enhanced by Rs.20,000/-                |

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.66,045/- is hereby enhanced to Rs.86,045/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent is directed to deposit the enhanced award amount along with interest and costs now determined by this Court, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

-s/d-

Assistant Registrar

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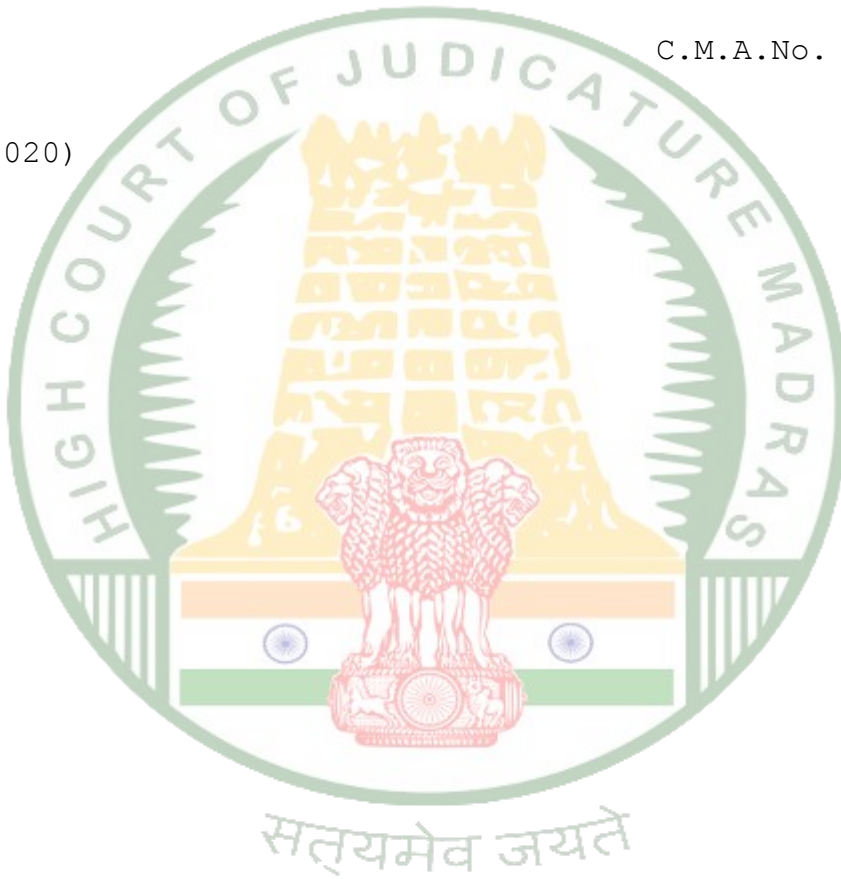
Sub-Assistant Registrar

To

1. The Motor Accident Claims Tribunal cum III Judge of Small Causes Court, Chennai.
  2. The Section Officer,  
V.R. Section  
High Court, Madras.(2 copies)
- +1 CC to Mr.S.R. Sumathy, Advocate sr 182.

C.M.A.No. 150 of 2009

MR(CO)  
SP(24/08/2020)



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