

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3055 of 2010

(Through Video Conferencing)

S.Sekar

... Appellant

Vs.

1.B.Padmavathy

2.United India Insurance Co. Ltd.,
No.38, Anna Salai,
Chennai - 600 002.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 19.12.2008 made in M.A.C.T.O.P.No.3364 of 2004, on the file of the V Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Mr.R.Kalaiarasan
for Mr.N.M.Muthurajan

For R1 : Not ready in notice

For R2 : Mr.J.Chandran

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J U D G M E N T

Heard the learned counsels for the appellant and the 2nd respondent.

2. This Civil Miscellaneous Appeal has been filed against the impugned Judgment and Decree dated 19.12.2008 passed by the Motor Accident Claims Tribunal, Chennai (V Court of Small Causes, Chennai) in M.C.O.P.No.3364 of 2004 .

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.74,400/- together with interest at 7.5% per annum from the date of the claim petition to the appellant/claimant, against the claim amount of Rs.5,00,000/-. Aggrieved by the same, the appellant/claimant has filed the present Civil Miscellaneous Appeal.

4. The facts of the present case are that the appellant/claimant rode the motor cycle from Vandalur to Anna Nagar along 200 feet road. While the appellant/claimant was so proceedings along Irumbuliyur bridge, a lorry bearing registration No. TN 45 X 3232 hit the motor cycle. The appellant/claimant sustained injuries and was admitted in the Appollo Hospital for treatment. Therefore, the appellant/claimed filed the claim petition for compensation of Rs.5,00,000/-.

5. I have considered the arguments advanced by the learned counsel for the appellant and the 2nd respondent.

6. I find that the impugned judgment of the Motor Accident Claims Tribunal, Chennai (V Court of Small Causes, Chennai) is well reasoned. However, the appellant / claimant deserves an enhanced compensation in the light of the evidence on record. The compensation awarded towards the loss of earning is enhanced by another sum of Rs.6,000/-. Similarly, compensation awarded towards the Medical Expenses is enhanced by another sum of Rs.8,000/-. A sum of Rs.10,000/- is awarded towards the Loss of Amenities and Attenders Charges. Thus, the total amount of compensation is enhanced to Rs.98,400/- (74,400 + 24,000) which is rounded off to Rs.99,000/-.

7. Though the Tribunal has directed the respondents to deposit the compensation jointly or severally, I am of the view that it is the 2nd respondent Insurance Company which is liable to pay the compensation to the appellant as the 2nd respondent Insurance Company has contracted a contract of indemnity to indemnify the 1st respondent against any liability that may be fastened against it under the Motor Vehicles Act, 1988.

8. The 2nd respondent Insurance Company is therefore directed to deposit the aforesaid compensation of Rs.99,000/- together with interest at 7.5% per annum from the date of the claim petition (i.e.14.09.2004) till the date of such deposit and cost, less any amount already deposited pursuant to the impugned Judgment and Decree, within a period of eight weeks from the date of receipt of a copy of this judgment.

9. On such deposit, the appellant is permitted to withdraw the same together with interest and cost, less any amount already withdrawn, by filing suitable application before the Tribunal.

10. This Miscellaneous Appeal stands partly allowed. No cost.

Sd/-
Assistant Registrar

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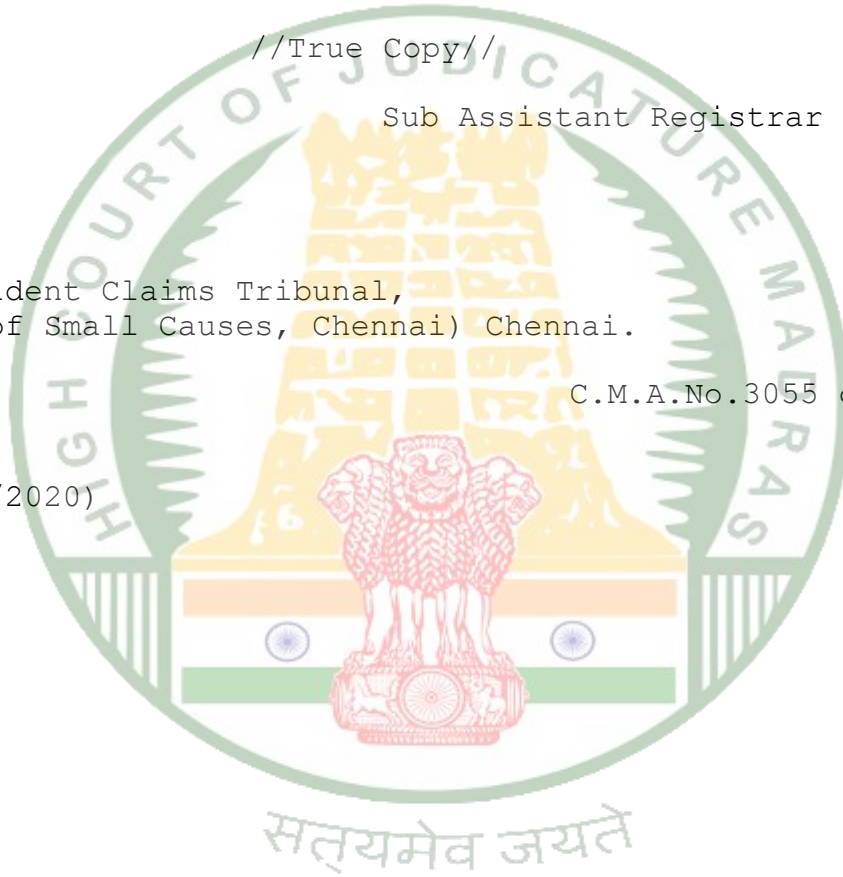
Sub Assistant Registrar

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To:
Motor Accident Claims Tribunal,
(V Court of Small Causes, Chennai) Chennai.

C.M.A.No.3055 of 2010

SS (CO)
RMP (04/12/2020)



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