

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No. 3308 of 2010

and

MP Nos.1 and 2 of 2010

United India Insurance Co. Ltd.,
W-122 (C-5) 3rd Avenue,
Anna Nagar,
Chennai - 600 040. Appellant /2nd Respondent

versus

1. G.Santhakumari

2. G. Tamilarasi

... Respondents/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree, dated 20.01.2010 made in MCOP No.1696 of 2007 on the file of the Motor Accident Claims Tribunal (VI Judge, Court of Small Causes) at Chennai.

For Appellant : Mr.S.Arun Kumar

For Respondents : R1 - Served
R2 - Exparte

JUDGMENT

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed by the Appellant / Insurance Company challenging the award dated 20.01.2010 passed by the Motor Accidents Claims Tribunal, VI Judge, Court of Small Causes, Chennai, directing the Appellant / Insurance Company to pay a sum of Rs.56,170/- towards compensation to the first respondent / claimant, as a result of the accident.

2. On 11.03.2007, when the first respondent / claimant was travelling as a pillion rider in a Motor cycle bearing Registration No.TN 01 Y 0069, he was hit by another Motor cycle bearing Registration No.TN 02 X 7859 coming from the opposite

direction at M.M.D.A. Water Tank road, Arumbakkam, Chennai. As a result of the said accident, the first respondent sustained injuries. According to the first respondent, the accident happened only due to the rash and negligent driving by the rider of the Motor cycle bearing Registration No.TN 02 X 7859, which is owned by the second respondent and insured with the appellant.

3. The first respondent preferred a claim before the Motor Accidents Claims Tribunal, VI Judge, Court of Small Causes, Chennai in MCOP No.1696 of 2007 seeking compensation for the injuries sustained by her, as a result of the said accident.

4. By an award dated 20.01.2010 in M.C.O.P. No.1696 of 2007, the Motor Accidents Claims Tribunal, VI Judge, Court of Small Causes, Chennai directed the appellant to pay the first respondent / claimant compensation of Rs.56,170/- together with interest @ 7.5.% per annum from the date of claim petition till the date of deposit and also awarded costs.

5. The break-up details of the compensation awarded by the Claims Tribunal are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Transportation	2,000/-
Extra Nourishment	2,000/-
Medical expenses	12,170/-
Pain and suffering	10,000/-
Disability of 30% at the rate of	30,000/-
Total	56,170/-

6. Aggrieved by the award dated 20.01.2010 passed in M.C.O.P. No.1696 of 2007, this appeal has been filed by the Appellant / Insurance Company.

7. Heard Mr.S.Arun Kumar, learned counsel for the Appellant / Insurance Company. Despite service of notice on the first respondent there is no representation on her side.

8. This Court has perused and examined the impugned award. Before the Tribunal, the first respondent has been examined as PW1 and the Doctor has examined her has also been examined as PW2. The first respondent has also filed seven documents before the Tribunal, which were marked as Exs.P1 to P7 viz., Discharge summary from Billroth Hospital(Ex.P1); Hospital bills (Ex.P2); Medical Bills (Ex.P3); Medical Prescriptions; Attested copy of

FIR in Cr. No.97/AS2/07 registered at K4 Anna Nagar Police Station (Ex.P5); Disability Certificate issued by PW2, Doctor (Ex.P6) and X-ray (Ex.P7). On the side of the Appellant / Insurance Company neither any witness nor any document has been marked.

9. Further Ex.P5, FIR has also been registered only against the rider of the motor cycle, which is insured with the Appellant/ Insurance Company. On perusal of the FIR, it reveals that only due to the rash and negligent driving of the motor cycle, which is insured with the Appellant / Insurance Company, the accident had happened. No contra evidence has been produced by the Appellant / Insurance Company to disprove the contention of the first respondent / claimant as well as the contents of the FIR.

10. The first respondent / claimant in his claim petition has claimed that she was working as Office assistant at Tamil Nadu Civil Supplies Corporation Limited, Chennai and was earning a sum of Rs.4,000/- p.m. The said statement has not been disproved by the Appellant / Insurance Company by producing any contra evidence. Further, the accident has happened in the year 2007. Therefore, the sum claimed by the first respondent as her monthly income viz., Rs.4,000/- p.m. is a reasonable sum.

11. In support of the expenses incurred by the first respondent / claimant and the injuries sustained by her, as a result of the accident, she has also filed the discharge summary from Billroth Hospital, Hospital bills, Medical bills and medical prescriptions and disability certificate issued by the Doctor, PW2.

12. The Motor Accident Claims Tribunal, VI Judge, Court of Small Causes, Chennai, has considered the entire materials available on record and only thereafter has passed the impugned award. Admittedly, no contra evidence has been produced by the Appellant / Insurance Company before the Tribunal to disprove the claim of the first respondent / claimant. The accident is of the year 2007 and therefore, no useful purpose would be served if the award is interfered with at this stage after a period of almost thirteen years that too when the award passed by the Tribunal is for a meagre sum of Rs.56,170/- together with interests and costs and further on preponderance of probabilities it is found that the compensation awarded by the Tribunal is a just compensation.

13. For the forgoing reasons, this Court is of the view that there is no merit in this appeal and the Civil Miscellaneous Appeal shall stand dismissed.

14. The Appellant/Insurance Company is directed to deposit the entire award amount as per the award of the Tribunal along with interest and costs after deducting the amount, if any already deposited, to the credit of MCOP.No.1696 of 2007 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 to the bank account of the claimant through RTGS within a period of two weeks thereafter. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

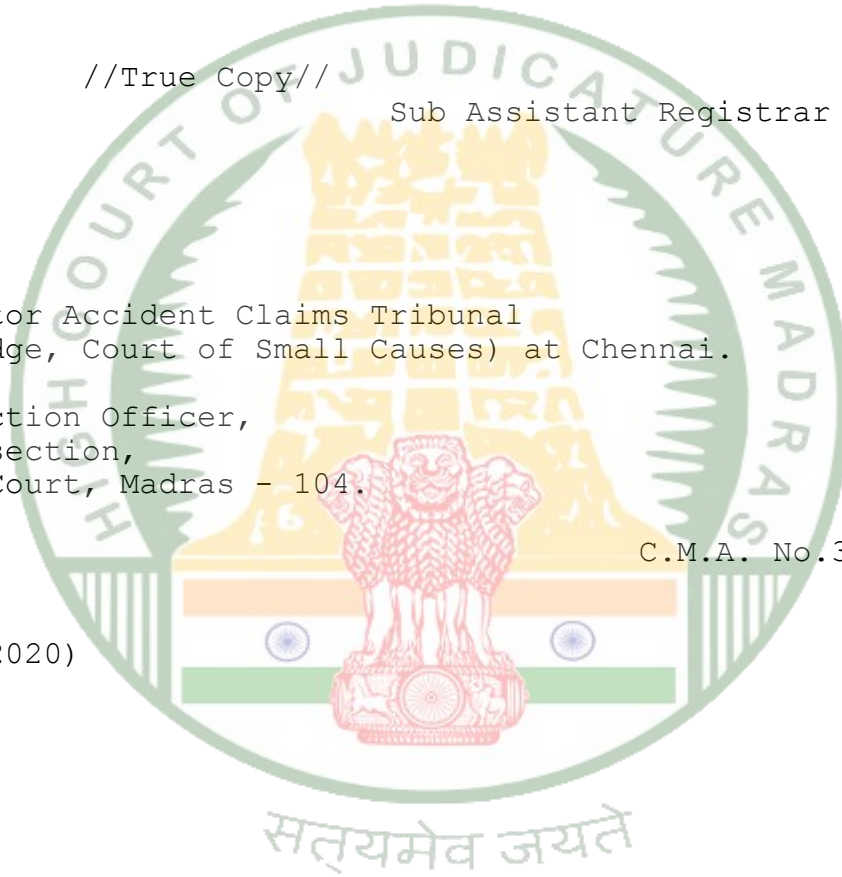
vsi2

To :

1. The Motor Accident Claims Tribunal
(VI Judge, Court of Small Causes) at Chennai.
- 2) The Section Officer,
V.R. section,
High Court, Madras - 104.

C.M.A. No.3308 of 2010

PP (CO)
CB(01/12/2020)



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