

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3543 of 2010

(Through Video Conferencing)

V.Kothandaraman Appellant/petitioner

Vs.

1.V.Mannu Mudaliyar

2.The United India Insurance Co. Ltd.,
No.38, Anna Salai, Chennai - 2. Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.516 of 1999 dated 25.07.2002 on the file of the Additional District Court (Fast Track Court - V, Chengalpattu) at Tiruvallur / Motor Accident Claims Tribunal, Tiruvallur.

For Appellant : M/s.Anand and Suryas
For 2nd Respondent : Mr.D.Bhaskaran
R1 : Exparte

J U D G M E N T

With the consent of the learned counsels for respective contesting parties, this Civil Miscellaneous Appeal is taken up for hearing.

2. The claimant is the appellant. The appellant is aggrieved by the impugned Judgment and Decree dated 25.07.2002 passed by the Additional District Judgment, Fast Track Court No.V, Chengalpattu (Motor Accident Claims Tribunal) at Tiruvallur in M.C.O.P.No.516 of 1999.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.1,91,300/- together with interest at 9% per annum from the date of claim petition till the date of deposit to the appellant/claimant. The appellant had claimed a sum of Rs.4,00,000/- as compensation before the Tribunal. In this appeal, the appellant/claimant has sought for enhancement of

compensation by another sum of Rs.2,80,700/- which is the balance amount of compensation claimed before the Tribunal.

4. It is case of the appellant/claimant that on 16.05.1999 at about 06.30 hours while he was walking along the side of P.E.V.R.Salai, a lorry bearing registration No.TN-37-F-9700 belonging to the 1st respondent insured with the 2nd respondent Insurance Company was driven by its driver in a rash and negligent manner and hit the appellant from behind, as a result of which, the appellant sustained the following injuries:-

- i. Compound fracture B.B. (R) and which leads to amputation of forearm below elbow,
- ii. Fracture (R) Great Trochanteric,
- iii. Head injuries, and
- iv. Multiple Injuries all over the body.

5. According to the learned counsel for the appellant/claimant, the Tribunal erred in awarding the compensation even though the injuries suffered by the appellant/claimant were severe and therefore, he seeks for enhancement of compensation.

6. Considering the nature of injuries suffered by the appellant/claimant, I am inclined to enhance the compensation by considering a notion income of the appellant/claimant as Rs.2,500/-. The compensation is re-quantified as follows:-

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As per the decision in Raj Kumar Vs. Ajay Kumar and Another, (2011) 1 SCC 343.

* As per the decision in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680 and in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12.

** As per the decision of the in Sanjay Verma Vs. Haryana Roadways, (2014) 3 SCC 210 and V.Mekala Vs. Malathi and Another, (2014) 11 SCC 178.

7. There is an excess amount of Rs.1,00,000/- over and above the amount of compensation claimed by the appellant/claimant in this appeal. Therefore, the appellant/claimant is directed to pay the necessary court fee on the amount of Rs.1,00,000/- within a period of four weeks from the date of receipt of a copy of this Judgment and file proof of payment of court fee before the Tribunal to withdraw the compensation.

8. It is also noticed that this Civil Miscellaneous Appeal has been filed belatedly with delay of 90 days. Therefore, no interest can be awarded for the period of delay as per the order dated 01.12.2010 of this Court made in C.M.P.No.19580 of 2003 in C.M.A.Sr.No.38393 of 2003. The interest awarded by the Tribunal on the amount of compensation at 9% per annum appears to be high and therefore, same is to be reduced 7.5% per annum on the enhanced amount of compensation of Rs.3,08,700/-.

9. The learned counsel for the 2nd respondent Insurance Company submitted that the amount of compensation awarded by the Tribunal has deposited together with interest by the 2nd respondent Insurance Company. Therefore, the 2nd respondent Insurance Company is directed to deposit the enhanced amount of compensation of Rs.3,08,700/- (5,00,000 - 1,91,300) together with interest at 7.5% per annum from the date of claim petition till the date of deposit except the period of delay in filing this appeal, within a period of six weeks from the date of receipt of a copy of this Judgment.

10. On such deposits, the appellant/claimant is permitted to withdraw the same together with interest, less any amount already withdrawn, by filing suitable application before Tribunal.

11. Accordingly, this Civil Miscellaneous Appeal is allowed. No cost.

Sd/-
Asst.Registrar (CO)

/true copy/
Sub Asst. Registrar

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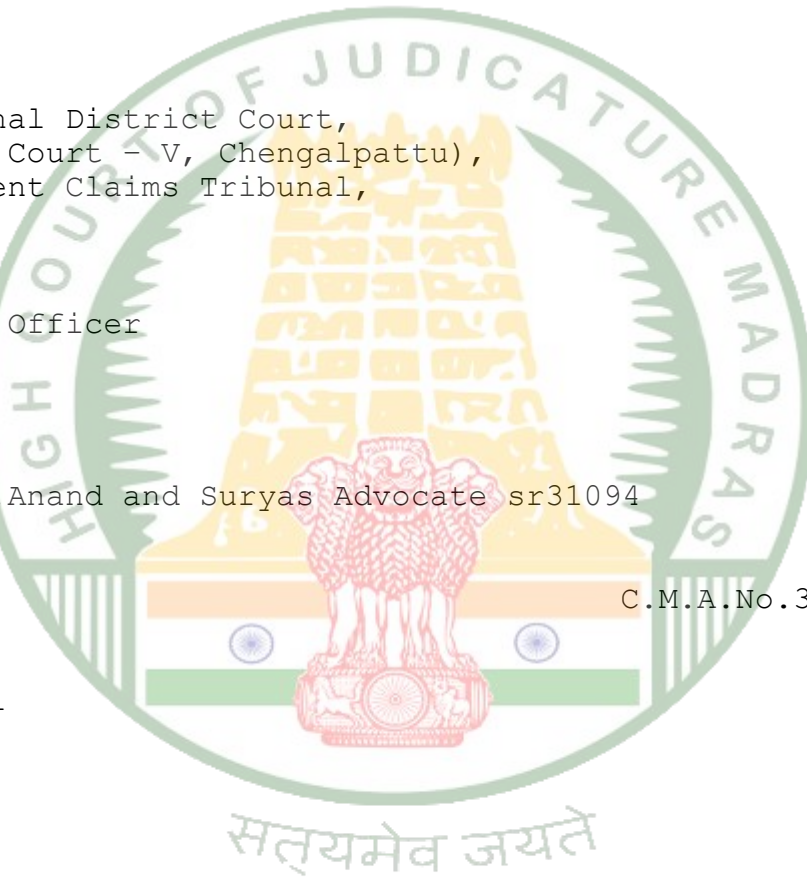
The Additional District Court,
(Fast Track Court - V, Chengalpattu),
Motor Accident Claims Tribunal,
Tiruvallur.

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The Section Officer
VR Section
High Court,
Madras-104

+1 cc to Mr.Anand and Suryas Advocate sr31094

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