

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2020

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

CMA.No.2822 of 2013

Arukkani

...Appellant/Petitioner

.Vs.

1.Ravichandran

2.United India Insurance Co.Ltd.,
146-N, West Car Street,
Tiruchengode,
Namakkal District.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 08.02.2013 in M.C.O.P.No.11 of 2008 on the file of the Motor Accidents Claims Tribunal, Tiruchengode.

For Appellant : Mr.S.Kulanthaivel
For R2 : Mr.C.Paranthaman

JUDGMENT

The appellant is the claimant in M.C.O.P.No.11 of 2008 on the file of the Motor Accidents Claims Tribunal, Tiruchengode. She filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MCOP Rules praying to award compensation of Rs.3,00,000/- for the injuries sustained by her in a road accident that took place on 06.12.2001.

2. The case of the claimant is that on 06.12.2001 at about 09.30A.M., the claimant was going towards Tiruchengode from her house by walk in Tiruchengode to Sankari Main Road on the extreme left side. At that time, a person, who was driving the TVS Suzuki Bike bearing Regn.No.TN-34-A-1672, drove the vehicle in a rash and negligent manner and hit against the claimant. Due to the said impact, the claimant fell down on the ground and sustained injuries on her right leg and right fore arm and left knee. The claimant was immediately taken to LKM Hospital, Erode for treatment and she was admitted as an inpatient from 06.12.2001 to 25.12.2001 and given treatment. The specific contention of the claimant is that the accident took place due

to the rash and negligent driving by the driver of the Motor Cycle bearing Reg.No.TN-34-A-1672 belonging to the first respondent and insured with the second respondent and therefore, they are liable to pay compensation of Rs.3,00,000/- to the claimant.

3. The Motor Accident Claims Tribunal, Tiruchengode, vide its decree and Judgment dated 08.02.2013, dismissed the claim petition filed by the claimant. Not being satisfied with the order of the tribunal, the claimant has preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. The learned counsel for the appellant would submit that the Tribunal ought not to have dismissed the claim petition on the ground that the claimant has failed to establish that the motor cycle belongs to the 1st respondent involved in the accident and due to which involvement, the claimant had sustained injuries. Further, the Tribunal erred in dismissing the claim of the appellant on the ground of delayed FIR and had come to the conclusion that the delay of 6 days in registering the FIR would make a strong doubt about the involvement of motor cycle in the accident. The Tribunal failed to consider that the claimant is 60 years illiterate lady at the time of accident and immediately, she was taken and admitted in the Hospital at Erode. There was an intimation from the hospital to the concerned police station and the police did not come to the hospital immediately and they came after 5 days and recorded the statement of the claimant and registered the case. Hence, the learned counsel for the appellant prays to allow this appeal.

5. Per contra, learned counsel appearing for the second respondent/Insurance Company contended that the order of the Tribunal is based on well laid principles of law, which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

6. Perusal of the records shows that the Tribunal did not award any amount to the claimant for the injuries sustained by her in the accident that took place on 06.12.2001. Considering the nature of injury, which the claimant had sustained, this Court is inclined to award a sum of Rs.28,000/- under the head "permanent Disability" for her disablement. This Court, by taking into account the sufferings of the injured, is inclined to grant a sum of Rs.15,000/- towards "pain and sufferings. It is seen that the appellant was earning more than Rs.3,000/- per month by doing milk vending. After the accident, she could not carry her work for nearly three months. Hence, this Court is inclined to award a sum of Rs.9,000/- towards "loss of income". During the treatment, she would have travelled to hospital many

times and hence, this Court awards a sum of Rs.3,000/- towards "transportation" and a sum of Rs.5,000/- towards "attendant charges" and a sum of Rs.1,000/- towards "damages to clothes". Considering the health of the injured, this court award a sum of Rs.3,000/- towards "Extra Nourishment". After scrutinizing the medical bills, this Court is inclined to award a sum of Rs.30,812/- towards "medical expenses" and Rs.2,000/- towards "loss of amenities".

7. The award passed by this Court under various heads are extracted hereunder:

S. No.	Head	Amount granted
1.	For permanent disability (Rs.1,000/- x 28)	Rs.28,000/-
2.	Loss of income (Rs.3,000/- x 3)	Rs.9,000/-
3.	Transport to Hospital	Rs.3,000/-
4.	Extra nourishment	Rs.3,000/-
5.	Medical expenses	Rs.30,812/-
6.	Pain and suffering	Rs.15,000/-
7.	Damages to cloth	Rs.1,000/-
8.	Attender charges	Rs.5,000/-
9.	Loss of amenities	Rs.2,000
	Total	Rs.96,812/- rounded off by Rs.97,000/-

8. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) This Court awards a sum of Rs.97,000/-, which would carry interest at the rate of 7.5% per annum. The appellant / claimant is directed to pay the court fee for the compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

(iii) The second respondent is directed to deposit the compensation amount i.e., Rs.97,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.11 of 2008 on the file of the Motor Accidents Claims Tribunal, Tiruchengode, within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sbn
To

1.The Judge,
Motor Accidents Claims Tribunal,
Tiruchengode.

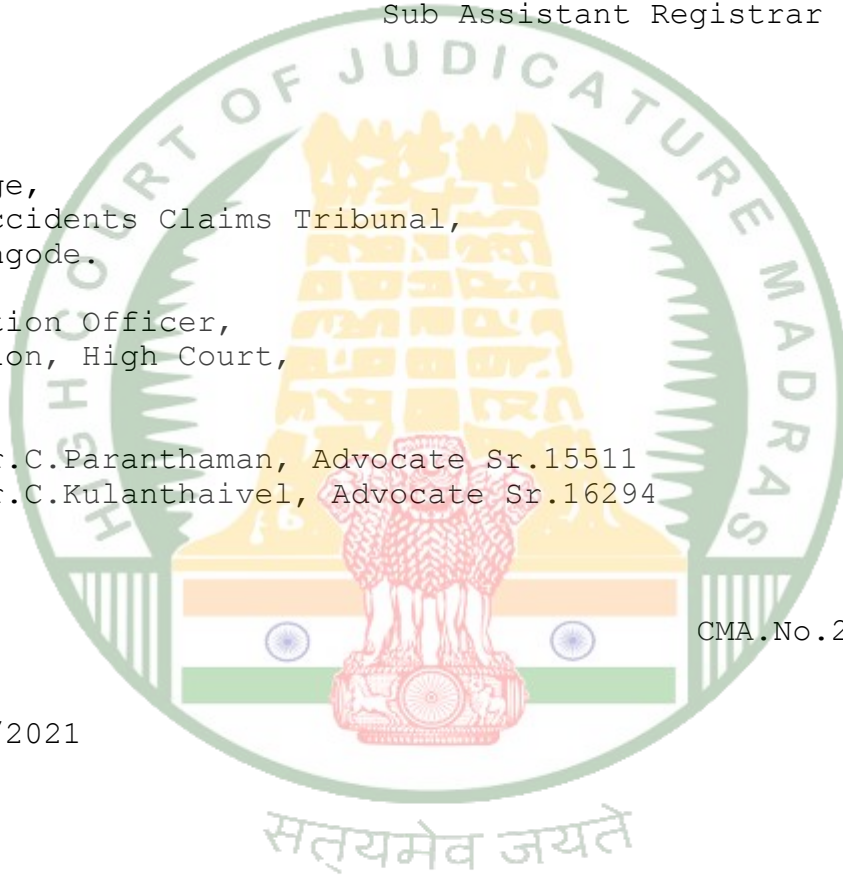
2.The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.C.Paranthaman, Advocate Sr.15511

+1cc to Mr.C.Kulanthaivel, Advocate Sr.16294

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