

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.02.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3196 of 2013

Jakkir Hussain

...Appellant/Petitioner

1.G. Ramakrishnan

Vs

2. United India Insurance Company Ltd.,
No.38, Anna Salai,
Chennai-2

.... Respondents/Respondents

(R1 remained exparte before Tribunal)

PRAYER: Civil Miscellaneous Appeal filed to set aside the Judgment and Decree dated 22.08.2008 made in M.A.C.T.O.P.No. 931 of 2004 on the file of the Motor Accident Claims Tribunal V Court of Small Causes, Chennai.

For appellant : Mrs. Subadra for Mrs.M.Malar

For Respondent-1 : Ex Parte

For respondent-2 : Mrs.R. Vijaya Kamala

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement of the compensation awarded in M.C.O.P.No. 931 of 2004 on the file of Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.

2.The appellant is the claimant. The first respondent and second respondents are the owner and insurer of the offending vehicle.

3.It is the case of the appellant that on 28.11.2003 at about 7.20 hours, when the appellant was riding his cycle at Santhome High Road, Junction of Madha Church Road, a lorry bearing Registration No.TN-04-Y-2579 came in a rash and negligent manner and hit the appellant. As a result of which the appellant sustained grievous injuries and took treatment at Government General Hospital, Chennai. The accident occurred only due to the rash and negligent driving of the driver of the lorry. Hence, he filed a claim petition before the Tribunal seeking Rs.2,00,000/- as compensation.

4.The Tribunal Considering the materials available on record awarded a sum of Rs.50,000/- as compensation with interest at 7.5% p.a from the date of petition till the date of realization.

5.Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal before this Court.

6.In order to prove the claim before the Tribunal, on the side of the appellant two witnesses were examined viz., P.W.1 and P.W.2 and 11 documents viz., Ex.P1 to Ex.P11 were marked. On the side of the respondent no witnesses was examined and no documents were adduced.

7.Before the Tribunal, the appellant has filed a claim petition, wherein it has been stated that the appellant sustained head injury and multiple injuries all over the body. With regard to avocation he is a coolie and earning Rs.100/- per day. Due to the injuries sustained in the accident, he was not able to continue his job as before. Hence, he prayed to award Rs.2,00,000/- as compensation under several heads.

8.The respondent/Insurance Company also filed a counter before the Tribunal and they have resisted their claim that the accident occurred due to the negligent on the part of the cyclist. It was also stated in the said counter that the injuries are very simple in nature. The appellant was hale and healthy.

9. On a perusal of the order passed the Tribunal, the negligence aspect was discussed elaborately. The Appellant was examined as P.W.1 and he had deposed that when he was riding his cycle along the Santhome High Road at the junction of Madha Church road, from east to west. At that time, the driver of the water tanker lorry bearing Registration No.TN-04-Y-2579 drove the vehicle in a rash and negligent manner and hit him. Ex.P.1/F.I.R supports the case of the claimant rather than respondents. Hence, the Tribunal based on the available evidence arrived at a conclusion that the driver of the lorry is the tortfeasor for the accident. To controvert the same, no new facts or grounds are forthcoming by the respondents. Hence, this Court is not inclined to interfere with the findings rendered on the negligence aspect and the same is confirmed as such.

10. With regard to quantum, on the basis of Ex.P.4/discharge summary the Tribunal has awarded a sum of Rs.10,000/-, Rs.1,000/- and Rs.1,000/- towards Medical Expenses, Transportation charges and Extra Nourishment respectively. Considering Ex.P.8/Medical bills Rs.3,000/- is awarded towards medical bills. Apart from this Rs.10,000/- is awarded towards Pain and sufferings and considering Ex.P.10/Disability Certificate Rs.25,000/- is awarded towards disability. Thus, the total compensation is quantified to Rs.50,000/-

11. In view of the above this Court observed that no amount was awarded towards attender charges and damage to clothes. Hence, Rs.2,000/- and Rs.1,000 is awarded towards the above heads respectively. The Tribunal has awarded Rs.10,000/- towards pain and sufferings, which is not suffice when compared to the injuries sustained by the claimant and the same is enhanced to Rs.25,000/-. The Tribunal has awarded Rs.1,000/- each towards the head Transportation and Extra nourishment and the same is enhanced to Rs.5,000/-each. All other heads remains intact. Thus, the award passed by this Court is as follows:

S.No.	Amount awarded by the Tribunal	Amount awarded by this Court
Loss of earnings	Rs.10,000/-	Rs.25,000/-
Transportation	Rs.1,000/-	Rs.5,000/-
Medical Expenses	Rs.3,000/-	Rs.3,000/-
Pain and suffering	Rs.10,000/-	Rs.10,000/-
Disability	Rs.25,000/-	Rs.25,000/-
Extra Nourishment	Rs.1,000/-	Rs.5,000/-
Attender Charges	-Nil-	Rs.2,000/-
Damage to clothes	-Nil-	Rs.1,000/-
Total	Rs.50,000/-	Rs.76,000/-

12. With the above said modification the award amount is enhanced to Rs.76,000/- from Rs.50,000/-

13. In the result, this Civil Miscellaneous Appeal is partly allowed. The second respondent-Insurance Company is directed to deposit the amount awarded by this Court along with 7.5% interest p.a from the date of petition till the date of realization, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made the appellant is permitted to withdraw the enhanced award amount, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Smn

To

The Motor Accidents Claims Tribunal,
V. Court of Small Causes, Chennai.

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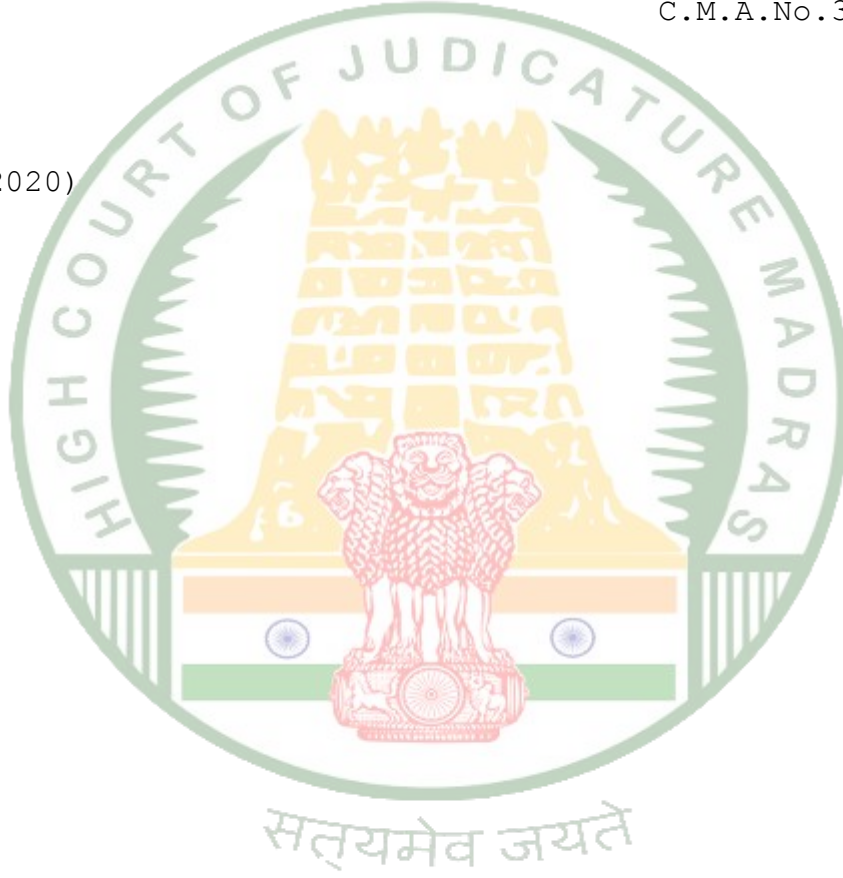
The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.M.Malar, Advocate, S.R.No. 9906

+1cc to Ms.R.Vijayakamala, Advocate, S.R.No. 9895

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GJ(CO)
GN(11/09/2020)



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