

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1858 of 2017

Mullaipandian

.. Appellant/Claimant

Vs.

1. Sankar
2. Palanisamy
3. TATA AIG General Insurance Company Ltd.,
Jaya Enclave, 3rd floor,
1057, Avinashi Road,
Coimbatore - 18. .. Respondents /Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award made in M.C.O.P.No.265 of 2012 dated 29.10.2013 on the file of the Motor Accident Claims Tribunal /II Additional District Sessions Judge, Coimbatore at Tirupur.

For Appellant : Mr.E.D.Sethupathi
For R1 : Not ready in notice

For R2 : No appearance
For R3 : Mr. N.Vijayarahavan

J U D G M E N T

According to the appellant/claimant, on 12.08.2011 at about 08.45am, he was riding XL Heavy Duty Moped bearing Registration No.TN 39 AT 9558 from K.V.R.Nagar, Tirupur to his company. When he was standing on the left side of the Mangalam Road, Karuvampalayam, opposite to Thiyagu Hotel, the Hero Honda motorcycle bearing Registration No.TN 36 P 7167 belonging to the second respondent and insured with the third respondent insurance company, came in a rash and negligent manner and dashed against the moped, due to which, the appellant sustained grievous injuries in all over the body. Stating so, he filed a claim petition, claiming a compensation of Rs.20,00,000/-. On consideration of the materials and evidence available on record, the Tribunal came to the conclusion that

the accident had occurred only due to the rash and negligent driving of the driver of the Hero Honda motorcycle and awarded a total compensation of Rs.1,57,100/- with interest at 7.5% per annum from the date of petition. Feeling aggrieved and being dissatisfied with the quantum so determined by the Tribunal, the appellant has preferred this appeal seeking enhancement of the same.

2. The learned counsel for the appellant / claimant has submitted that the Tribunal has erred in awarding only a meagre sum of Rs.1,57,100/- as against the claim of Rs.20,00,000/- made by the appellant / claimant; the Tribunal has awarded a lesser sum of Rs.50,000/- towards 25% permanent disability; the compensation awarded under other heads are also very meagre; hence, the same have to be enhanced substantially.

3. Per contra, the learned counsel for the third respondent Insurance company submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

4. Heard the learned counsel on either side and perused the materials available on record.

5. P.W.1/claimant, has in his evidence, deposed that he was aged about 23 years and was earning a sum of Rs.50,000/- per month as Proprietor of M/s. Sri Vinayaga Garments, Tirupur. However, no proof was produced to substantiate the same. P.W.2 Doctor has narrated about the nature of the injuries sustained by the appellant/claimant. Ex.P12 is the Discharge Summary. Medical bills have been marked as Ex.P13. Ex.P16 is the Disability Certificate (25%). The Tribunal has relied upon the exhibits, evidence of witnesses, treatment records of the injured, percentage of disability assessed by the Doctor and all other aspects in a proper perspective and has awarded the compensation amount under various heads to the claimant. Further, this Court is of the considered view that the amounts awarded towards various heads are reasonable and justifiable and hence the same are confirmed.

6. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The third respondent Insurance Company is directed to deposit the entire award amount along with interest and costs, as awarded by the Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made,

the appellant/claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Asst.Registrar (CS VI)

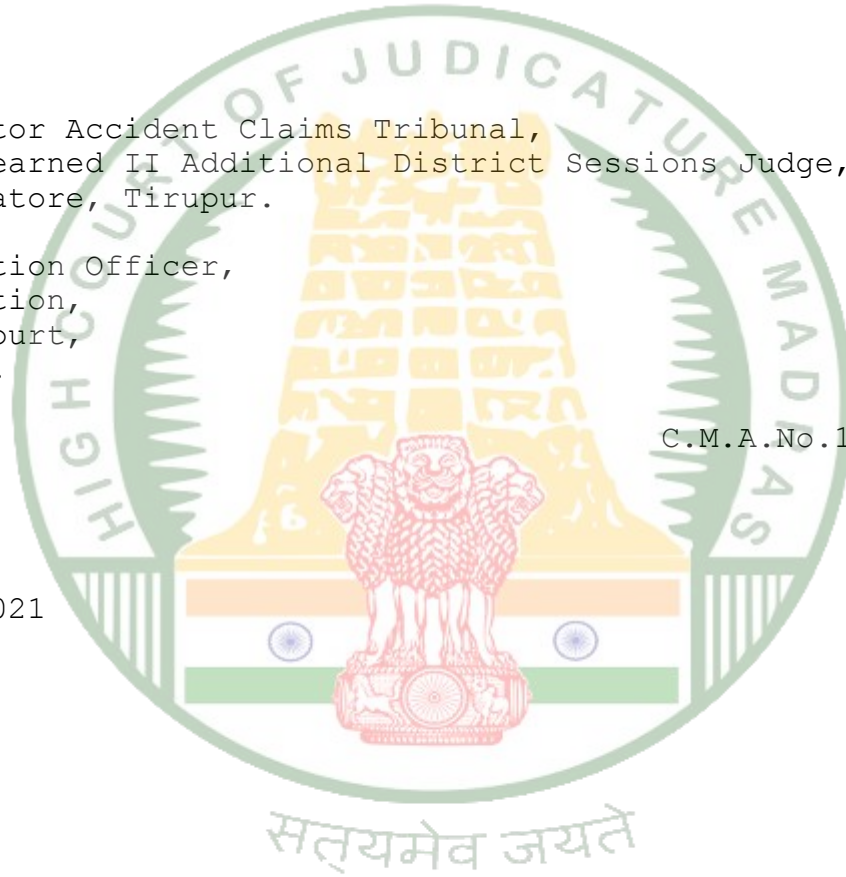
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Sub Asst. Registrar

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To

1. The Motor Accident Claims Tribunal,
The learned II Additional District Sessions Judge,
Coimbatore, Tirupur.
- 2.The Section Officer,
VR Section,
High Court,
Madras.

C.M.A.No.1858 of 2017

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