



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.Nos.404 and 491 of 2021
and
C.M.P.No.3100 of 2021

C.M.A.No.404 of 2021

R.Murugan

... Appellant/Petitioner

Vs.

1.Sri Thyagarajan Enterprises,
rep. by its prop G.Thyagarajan,
5/1, 15th Avenue, Ashok Nagar,
Chennai - 600 083.

2.The New India Assurance Co. Ltd.,
Third Party Claim Cell,
No.232, 6th Floor, N.S.C Bose Road,
Mombay Mutual Building,
Opposite High Court,
Chennai 600 001.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 02.07.2020 in MCOP No.6342 of 2013 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.S.N.Narasimhulu
For Respondents : Mr.J.Chandran for R2
No appearance for R1

C.M.A.No.491 of 2021

The New India Assurance Co. Ltd.,
No.45, Moor Street,
Chennai - 600 001.

... Appellant/Respondent 2

Vs.



1.R.Murugan

Respondent 1/Petitioner

2.Sri Thyagarajan Enterprises,
rep. by its prop G.Thyagarajan,
5/1, 15th Avenue, Ashok Nagar,
Chennai - 600 083.

... Respondent 2/Respondent 1

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 02.07.2020 in MCOP No.6342 of 2013 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.J.Chandran
For Respondents : Mr.S.N.Narasimhulu for R1
No appearance for R2

JUDGMENT

[Judgment of the Court was delivered by K.KALYANASUNDARAM, J.]

CMA No.491 of 2021 is filed by the Insurance Company/second respondent in MCOP No.6342 of 2013 on the file of the Motor Accident Claims Tribunal, (II Small Causes Court), Chennai. Claimant in the said MCOP has come up with the appeal in CMA No.404 of 2021 seeking enhancement of compensation.

2.This is case of injury. The claimant has suffered injury in the accident that had taken place on 27.09.2013 involving a trailer lorry bearing Reg.No.TN-09-AF-1991. The claimant examined two witnesses and produced 15 documents. Besides, disability certificate was marked as Ex.C.1

3.The Tribunal, on appreciation of evidence adduced by the parties, has held that the accident had occurred due to the negligence of the driver of the trailer lorry and awarded compensation of Rs.40,76,300/-.

4.The learned counsel appearing for the Insurance Company Mr.J.Chandran would urge that this appeal has been filed challenging the finding on negligence as well as quantum of compensation. According to the learned counsel, the injured did not prove his income by relying the documents, but the Tribunal has fixed notional income at Rs.15,000/- per month, which is on the higher side.

5.The learned counsel appearing for the claimant S.N.Narasimhulu would state that the claimant had taken treatment in the Government Hospital as well as in the private hospital for the period of 110 days. Though the claimant had



produced the medical bills for a sum of Rs.8,36,519/-, the Tribunal has awarded only Rs.92,641/- on the ground that he failed to produce the original bills. The learned counsel further added that the claimant is having original bills to substantiate his case and the matter can be remanded for fresh consideration.

6. The Motor Vehicles Act is a beneficial legislation. The Tribunal rejected the bills produced to prove the medical expenses of the claimant for the only reason of non-production of the originals. The learned counsel representing the claimant states that the originals are available and they are ready to produce them before the Tribunal. So, to meet the ends of justice, this Court is inclined to remit the matter to the Tribunal.

7. In that view, the award and decree passed in MCOP No.6342 of 2013 dated 02.07.2020 by the Motor Accident Claims Tribunal (II Small Causes Court), Chennai is set aside and the matter is remanded back to the Tribunal for fresh consideration. The parties are at liberty to let in evidence to substantiate their case.

8. With the above direction, these Civil Miscellaneous Appeals are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

skn

To

1. The Motor Accident Claims Tribunal,
II Small Causes Court, Chennai.

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

+2cc to Mr. S.N. Narasimhulu, Advocate SR.No.28244

+1cc to Mr. J. Chandran, Advocate SR.No.28185 (21/06/2022)

C.M.A.Nos.404 and 491 of 2021
and

C.M.P.No.3100 of 2021

KV(CO)
GN(06/06/2022)