

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA No.1006 OF 2015
and M.P.No.1 of 2015

The New India Assurance Company Ltd.,
No.45, Moore Street,
Chennai - 600 001.

.. Appellant / 2nd Respondent

vs.

1.V.Palani

... 1st Respondent / Petitioner

2.G.Gokulakrishnan

.. 2nd Respondent/ 1st Respondent

Prayer :- Civil Miscellaneous Appeal filed under Section 173 of M.V. Act 1988 against the decree and judgment dated 16.09.2014 made in MCOP No.692 of 2013 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.R.Neethi Perumal
For Respondents: Mr.Varadha Kamaraj
for R1

JUDGMENT

This appeal has been preferred by the insurance company against the compensation of Rs.3,84,100/- awarded by the tribunal for the injuries sustained by the 1st respondent / claimant in the accident occurred on 21.12.2012.

2. Heard Mr.R.Neethi Perumal, learned counsel appearing for the appellant and Mr.Varadha Kamaraj, learned counsel appearing for the 1st respondent / claimant.

3. Though the learned counsel appearing for the appellant would submit that the driver of the vehicle did not possess a valid driving licence at the time of accident, it is seen that no material have been produced before this Court for having summoned the RTO officials to prove that the driver of the vehicle does not possess a valid driving licence at the time of accident. In those circumstances, the tribunal rightly rejected the contention of the appellant to order pay and recovery. The said finding given by the tribunal is based on evidence and that cannot be entertained.

4. The next contention of the learned counsel appearing for the appellant is with regard to the quantum of compensation awarded by the tribunal, especially with regard to the attender charges to the tune of Rs.50,000/-, pain & sufferings Rs.50,000/-, transporation Rs.35,000/- and loss of amenities Rs.35,000/- which are on the higher side.

5. A perusal of the records would reveal that the 62 years old respondent/claimant sustained fracture of right medial condyle and left tibial condyle with fibula fracture. Though P.W.2, doctor assessed the disability at 60%, the tribunal fixed the same at 50% and awarded a sum of Rs.1,00,000/- towards disability. The said amount awarded by the tribunal is very reasonable and the same is confirmed. However, Rs.35,000/- awarded towards transporation, Rs.50,000/- each towards pain & suffering and attender charges and Rs.35,000/- towards loss of amenities are on the higher side and therefore they are accordingly reduced to Rs.25,000/-, Rs.30,000/-, Rs.40,000/- and Rs.25,000/- respectively. Thus, the amount of Rs.3,84,100/- awarded by the tribunal is reduced to Rs.3,34,100/-, break-up as follows -

(1) Disability	...	Rs.1,00,000/-
(2) Transporation	...	Rs. 25,000/-
(3) Extra nourishment	...	Rs. 30,000/-
(4) Pain & Sufferings	...	Rs. 30,000/-
(5) Medical expenses	...	Rs. 20,092/-
(6) Attender charges	...	Rs. 40,000/-
(7) Damages to clothes	...	Rs. 3,000/-
(8) Loss of income	...	Rs. 36,000/-
(9) Loss of amenities	...	Rs. 25,000/-
(10) Future medical expenses	...	Rs. 25,000/-
Total		Rs.3,34,092/-

Rounded off to Rs.3,34,100/-

The rate of interest awarded by the tribunal at 7.5% shall remain unaltered.

6. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

7. The appellant/insurance company is directed to deposit the compensation awarded by this Court alongwith interest and costs, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the 1st respondent/claimant is permitted to withdraw the amount alongwith interest and costs. If the award amount has already been deposited,

the appellant/insurance company is permitted to withdraw the excess amount available in the deposit.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

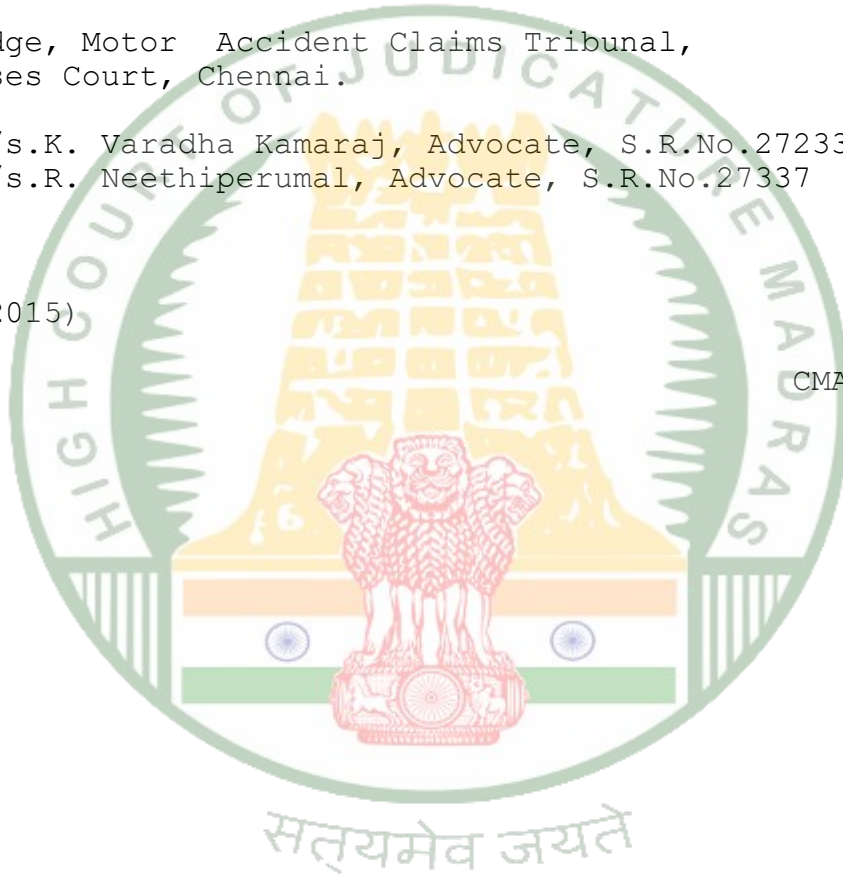
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To
The IV Judge, Motor Accident Claims Tribunal,
Small Causes Court, Chennai.

+1cc to M/s.K. Varadha Kamaraj, Advocate, S.R.No.27233
+1cc to M/s.R. Neethiperumal, Advocate, S.R.No.27337

MP (CO)
EU (29/06/2015)

CMA No.1006 OF 2015



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