

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 122 of 2015

&

M.P. No. 1 of 2015

Iffco - Tokio General Insurance
Company Ltd.,
New. No. 28, Old No. 195,
North Usman Road,
T. Nagar,
Chennai - 600 017.

...Appellant/2nd Respondent

Vs.

1. Arulmurugan

...1st Respondent/Petitioner

2. A. Vinoth

(R2 set ex part before the Trial Court) ...2nd Respondent/

1st Respondent

Prayer: Civil Miscellaneous Appeal as against the decree and judgement dated 20.12.2013 passed in M.C.O.P. No. 506 of 2012 on the file of Motor Accidents Claims Tribunal (Additional District Judge), Namakkal.

For Appellant :: Mr.C.R.Krishnamoorthy

For Respondents :: Mr.Ma.P.Thangavel for R1

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs. 4,21,100/- passed by the Motor Accidents Claims Tribunal (Additional District Judge), Namakkal, in favour of the 1st respondent herein for the injuries sustained by him in the accident, which occurred on 04.03.2012.

2. Heard Mr.C.R. Krishnamoorthy, learned counsel for the petitioner and Mr.Ma.P. Thangavel, learned counsel for the 1st respondent.

3. The Tribunal, after enquiry, came to the conclusion that the driver, who drove the vehicle insured with the appellant Insurance Company, did not have a valid driving licence at the time

of accident and the same was proved by the evidence of R.W.2, Motor Vehicle Inspector. Therefore, for violation of policy condition, pay and recovery was rightly ordered by the Tribunal.

4. As far as quantum of compensation is concerned, the claimant sustained fracture and dislocation of lower jaw, fracture and dislocation of upper jaw, deep lacerated wound over left forehead, deep lacerated wound over left scalp and contusion of chest wall, as evidenced by Ex-P6, Discharge Summary and Ex-P2, Wound Certificate. The claimant was hospitalised for 15 days; was operated upon and wires were fixed. Moreover, he lost four teeth and there was malunion of jaw bones. Therefore, based on P.W.2 Doctor's evidence, the Tribunal rightly fixed the disability at 45% and awarded Rs.90,000/- towards "Disability". The amount of Rs.40,000/- awarded towards "Pain and Suffering"; Rs.40,000/- awarded towards "Extra Nourishment"; Rs.10,000/- awarded towards "Transportation Expenses"; Rs.13,000/- awarded towards "injuries sustained" and Rs.78,119/- awarded towards "Medical Expenses" based on Ex-P7, Medical Bills, are all reasonable and hence, confirmed. However, the sum of Rs.1,50,000/- awarded towards "Loss of Future Earning Capacity" is adjusted towards "Disfigurement of face and Loss of Amenities". Hence, the total compensation of Rs.4,21,100/- awarded by the Tribunal, together with interest @ 7.5% per annum, is reasonable and the same is confirmed.

5. The appellant Insurance Company is directed to deposit the entire compensation amount, together with interest and costs, after deducting the amount, if any, already deposited, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is permitted to withdraw the entire amount, within a period of one week thereafter. As observed earlier, pay and recovery ordered by the Tribunal is confirmed and the Insurance Company is at liberty to take steps to recover the award amount deposited by them from the owner of the vehicle, namely, the 2nd respondent herein.

6. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs.

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s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

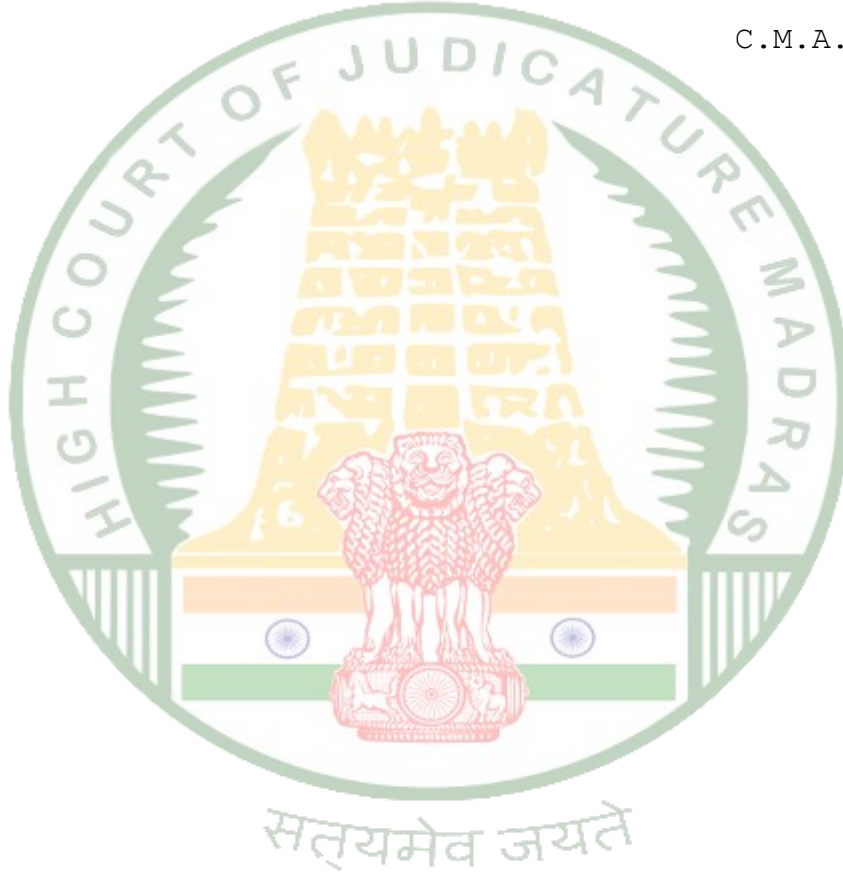
The MACT (Additional District Judge),
Namakkal.

+ 1 cc to Mr.C.R.Krishnamoorthy, Advocate SR 24104

+ 1 cc to Mr.Ma.Pa.Thangavel, Advocate SR 24132

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