

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.2153 of 2011

The Divisional Manager,
United India Insurance Co. Ltd.,
Branch Office,
No.180-A, Attur Road,
Rasipuram. Appellant/II Respondent

Vs.

1.P.ChinnasamyI Respondent/Petitioner
2.P.DharmalingamII Respondent/I Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 11.02.2011 made in M.C.O.P.No.62 of 2009 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Namakkal.

For Appellant : Mr.T.Ravichandran
For Respondents : Mr.Ma.P.Thangavel for R1

JUDGMENT

This appeal has been preferred by the Insurance Company against the award of Rs.4 Lakh for the injury sustained by the 1st respondent in the accident, which occurred on 24.01.2002.

2. Heard Mr.T.Ravichandran, learned counsel appearing for the appellant and Mr.Ma.P.Thangavel, learned counsel appearing for the 1st respondent. The only question is to be decided as to whether the quantum of compensation is adequate or not.

3. Though Mr.T.Ravichandran, learned counsel appearing for the appellant would strenuously argue that a sum of Rs.3,000/- fixed by the Tribunal as monthly income in the year 2002, for an agricultural coolie, is too high and it cannot be said that it is on the higher side. The Honourable Supreme Court in New India Assurance Company Ltd. Vs. Smt.Kalpana & others reported in 2007 (1) SCC 514 took a sum of Rs.3,000/- as a contribution to the family. Therefore, a sum of Rs.3,000/- fixed by the Tribunal as monthly income is

reasonable. However, considering the age of the 1st respondent as 35 years, following the judgment of the Honourable Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1, 50% is to be added towards future prospects. If it is done, the monthly income would be Rs.3,000+50%=4,500/-.

4. Since the 1st respondent/claimant's left hand has been amputated, he is not in a position to do any work especially, his avocation is agricultural coolie. Therefore, 60% disability was rightly determined by the Tribunal and adopted multiplier method justifiably to determine the loss of income. Loss of income is determined applying multiplier 16 as follows:

$$3,000+50\% \times 12 \times 16 \times 60 / 100 = 5,18,400/-.$$

5. Rs.13,625/- awarded by the Tribunal towards pain and suffering is negligible and considering the amputation of left hand of the claimant, the same is enhanced to Rs.50,000/-. Rs.10,000/- awarded towards transportation stands confirmed. Similarly, a sum of Rs.5,775/- awarded towards medical bills stands confirmed. Rs.10,000/- awarded towards extra nourishment is hereby enhanced to Rs.25,000/-. Rs.15,000/- awarded by the Tribunal towards loss of income is deleted. Rs.50,000/- is hereby awarded towards loss of amenities. Totally, this Court awards a sum of Rs.6,59,175/- as compensation. Rounded off to Rs.6,60,000/-. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

6. Though the appeal has been preferred by the Insurance Company against the award of Rs.4,00,000/-, this Court enhances the same to Rs.6,60,000/- in favour of the claimant, even in the absence of any appeal/cross appeal by the claimant, in an endeavor to award just compensation, invoking Order 47 Rule 33 of the Code of Civil Procedure. That part the provisions of Motor Vehicles Act are beneficial in nature.

7. This Civil Miscellaneous Appeal is disposed of in the above terms. No costs.

8. The appellant/Insurance Company is directed to deposit the entire amount along with interest and costs, as per the modified award passed by this Court, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent/claimant is permitted to withdraw only a sum of Rs.3,60,000/- along with accrued interest. The balance amount of Rs.3,00,000/- shall be deposited in interest bearing Fixed Deposit in

any one of the Nationalised Banks for a period of three years.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

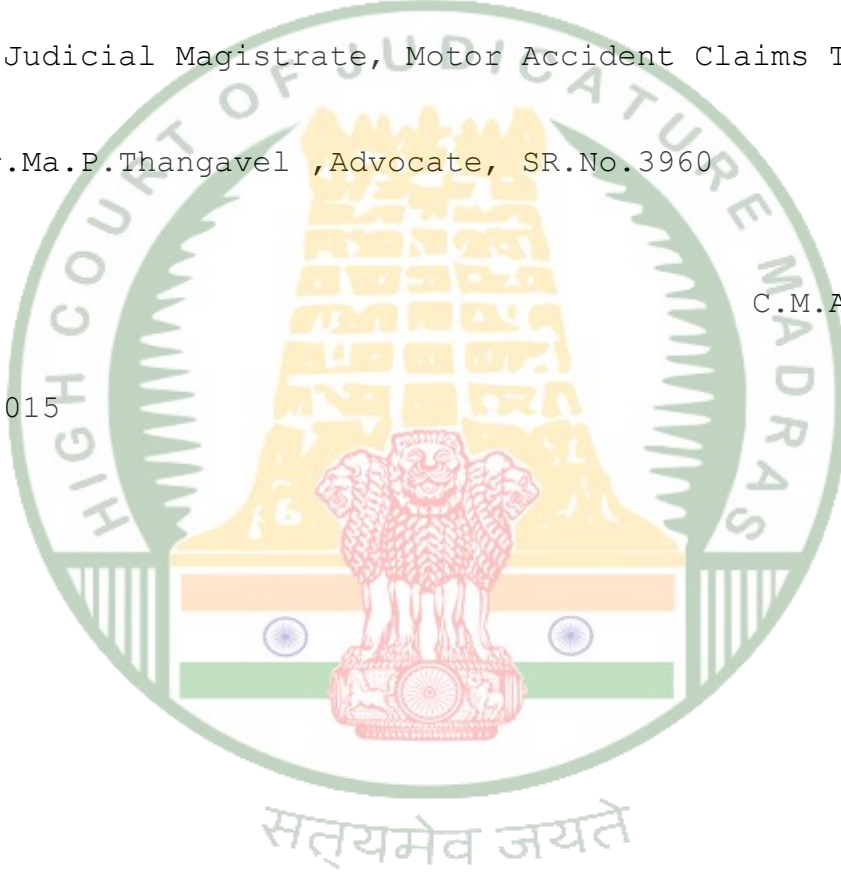
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To

The Chief Judicial Magistrate, Motor Accident Claims Tribunal,
Namakkal.

1 cc to Mr.Ma.P.Thangavel ,Advocate, SR.No.3960

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