

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.280 of 2015

and

M.P.No.1 of 2015

The Branch Manager,
IFFCO - TOKKIO General Insurance Company Ltd,
J.H.Towers, 2nd Floor,
New No.24, Old No.302, LIC Colony Road,
Salem.

... Appellant/R2

Vs.

1.R.Manjunath

2.L.Lagumappa

... Respondents/Claimant and R1.

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 20.12.2013 made in M.C.O.P.No.21 of 2012 on the file of Motor Accident Claims Tribunal, (Sub Court), Hosur.

For Appellant : Mr.C.R.Krishnamoorthy

For Respondents : -

JUDGMENT

This appeal has been preferred by the Insurance Company against the award of Rs.4,02,000/-, for the injury sustained by the first respondent/claimant, in the accident, which occurred on 13.03.2011.

2. Mr.C.R.Krishnamoorthy, learned counsel appearing for the appellant would submit that the 50% disability determined by the Tribunal is on the higher side and consequently awarding of Rs.4,02,000/- is also on the higher side.

3. However, a perusal of records would show that the first respondent sustained Type-III B open fracture of both bones in right leg. He was admitted in the hospital on 15.03.2011 and discharged on

30.03.2011. On.16.03.2011, wound debridement, external fixator application and local transposition flap was done and the plate was fixed inside the wound during the surgery.

4. Taking into consideration of the above injury and the consequent effect of the injury on the functioning of the first respondent, based on P.W.2 Doctor's evidence, as per Ex.P11 disability certificate, the Tribunal rightly fixed the disability at 50% and it cannot be said to be on the higher side. Rs.3,000/- was fixed per percentage, a sum of Rs.1,50,000/- was rightly awarded.

5. A sum of Rs.50,000/- was awarded towards pain and sufferings, Rs.23,000/- was awarded towards medical bills, as per documents Exs.P7 and P8 series, Rs.25,000/- was awarded towards future medical expenses, Rs.36,000/- was awarded towards loss of income during treatment, Rs.30,000/- was awarded towards extra-nourishment, Rs.18,000/- was awarded towards attender charges, Rs.20,000/- was awarded towards Transportation and they are all reasonable. Further, the first respondent/claimant has to be operated for removing plate, which was fixed during surgery. For that towards medical expenses, the Tribunal rightly awarded Rs.50,000/-. Thus, a sum of Rs.4,02,000/- awarded by the Tribunal along with interest at the rate of 7.5% cannot be said to be on the higher side.

6. As the driver of the vehicle did not possess any valid driving license, the Tribunal rightly ordered pay and recovery and therefore the award passed by the Tribunal is confirmed and the appeal is dismissed. No costs. Consequently, connected M.P. is closed.

7. The appellant Insurance Company is directed to deposit the entire award amount along with interest at the rate of 7.5% with costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the first respondent/claimant is permitted to withdraw the entire amount within one week.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rrg

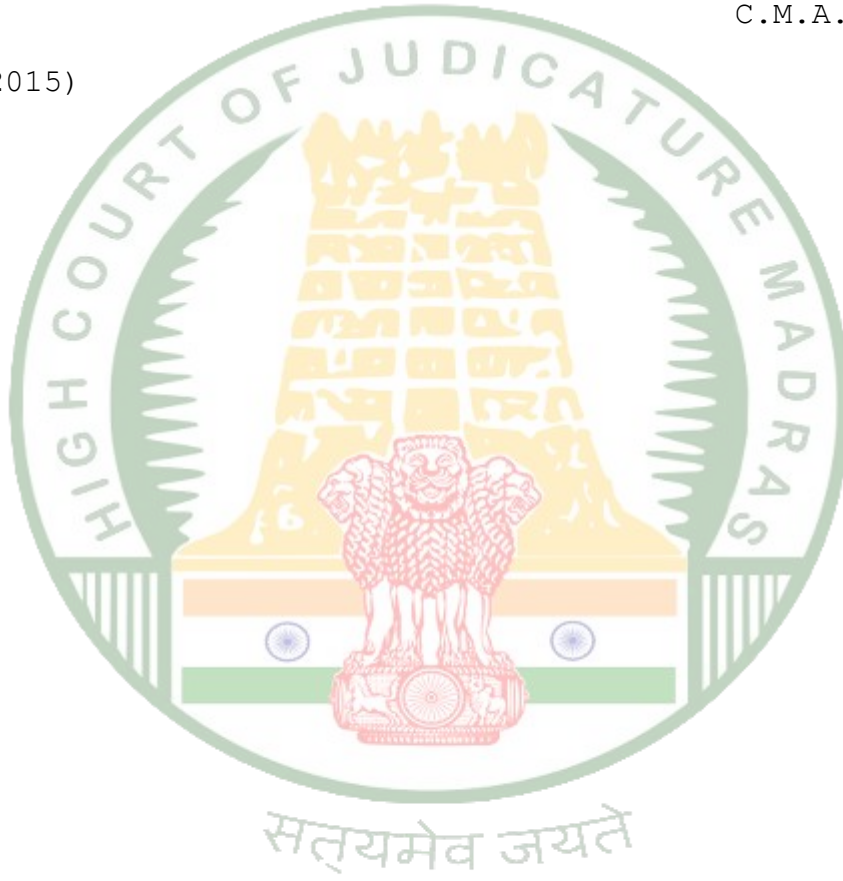
To

The Motor Accident Claims Tribunal,
(Subordinate Judge),
Hosur.

+lcc to Mr.C.R.Krishna kumar, Advocate, S.R.No.12226

C.M.A.NO.280 of 2015

KSJ(CO)
CA(16/03/2015)



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