

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.463 of 2015

and

M.P.No.1 of 2015

The Branch Manager

IFFCO - TOKIO

General Insurance Company Ltd.,

Bandra Branch 181,

IFFCO Bhavan,

3rd Floor, Water Field Road,

Bandra West,

Mumbai.

.... Appellant/2nd Respondent

Vs.

1. Saravanan

.... 1st Respondent/Claimant.

2. The Managing Director,

M/s.Ashok Leyland Limited,

Unit-I, SIPCOT,

Hosur Taluk,

Krishnagiri District

... 2nd Respondents/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 25.10.2013 made in M.C.O.P.No.162 of 2012 on the file of Motor Accident Claims Tribunal, (Sub Judge), Hosur.

For Appellant : Mr.C.R.Krishnamoorthy

For Respondents : Mr.Pa.Sureshkumar for R-1

JUDGMENT

This appeal has been preferred by the Insurance Company, against the award of Rs.4,43,600/- as compensation to the first respondent/claimant, who sustained injuries, in the accident, which occurred on 07.06.2012, when he was riding his two wheeler, which was hit by the Tipper Lorry, insured with the appellant Insurance Company, driven rash and negligently.

2. Heard Mr.C.R.Krishnamoorthy, learned counsel appearing for the appellant and Mr.Pa.Sureshkumar, learned counsel appearing for the first respondent/claimant.

3. The learned counsel appearing for the appellant would argue that the Tribunal has not properly assessed the disability and erroneously fixed the disability at 40%. A perusal of the injuries sustained by the claimant would justify the said determination. Following are the injuries sustained by the claimant.

1. Comminuted intra articular fractures distal left radius.
2. Head injury.
3. Frontal Sinus(Ant + Post Table) undisplaced.
4. Injury to Nasal Bone
5. Floor of Orbit Left Eye
6. Medial wall of Orbit left eye
7. Zygomatic Butrres left side
8. Multiple lacerated injuries over body.

4. For the fracture, the claimant was operated and plate and screw were fixed and in view of that the claimant cannot walk long distance, stand long time, unable to sit and stand and squat and very difficult to do normal works as he was doing before the accident as a driver. Therefore, the said determination at 40% cannot be found fault with. However, a sum of Rs.3,000/- awarded per percentage is on the higher side and therefore this Court awards a sum Rs.2,500/- per percentage and award a sum of Rs.1,00,000/- instead of Rs.1,20,000/-.

5. A sum of Rs.36,000/- awarded towards loss of income during treatment period is said to be on the higher side and the same is reduced to Rs.15,000/-. Moreover, a sum of Rs.40,000/- was awarded towards pain and suffering, Rs.1,34,600/- awarded towards medical expenses as per Ex.P7, Rs.30,000/- awarded towards extra-nourishment, Rs.5,000/- awarded towards transportation, Rs.18,000/- awarded towards attender charges, Rs.30,000/- awarded towards loss of amenities and Rs.30,000/- awarded towards future medical expenses are all reasonable and the same is confirmed. The award of Rs.4,43,600/- is reduced to Rs.4,02,600/- rounded to Rs.4,00,000/- along with interest at the rate of 7.5% p.a.

6. In the result, the appeal is partly allowed. No costs. Consequently, connected M.P. is closed. The appellant Insurance Company is directed to deposit the entire award amount along with interest at the rate of 7.5% p.a. and 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 thereafter.

rrg

-s/d-

Assistant Registrar(V)

True Copy

Sub-Assistant Registrar

To

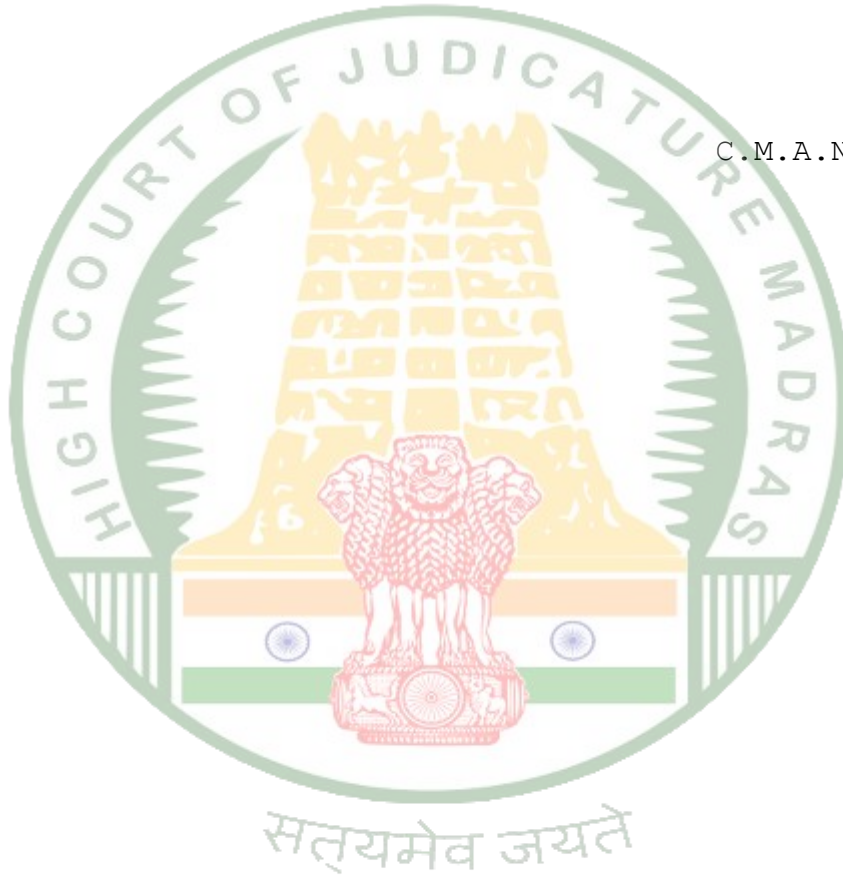
The Motor Accident Claims Tribunal,
(Sub Judge),
Hosur.

+ 1 cc to Mr.C.R.Krishnamoorthy, Advocate SR 15506

+ 1 cc to Mr.PA.Suresh Kumar, Advocate SR 15425.

su(co)
prk16/4

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