

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.3.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA.No.482 of 2015

The Oriental Insurance Co.Ltd.,
Branch Office,
No.3-L, Siddhaveerappa Chetty Street,
Dharmapuri-1.

...Appellant/2nd Respondent

Versus

1.Chinnkannu

...1st Respondent/Petitioner

2.K.N.Sivaji

...2nd Respondent/1st Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the judgement and decree in M.C.O.P.No.2581 of 2013 dated 27.08.2014 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge, Krishnagiri.

For Appellant : Mr.M.B.Raghavan

For Respondents : Mr.M.Selvam

JUDGMENT

The appeal has been preferred by the Insurance Company against the award of Rs.12,08,017/- for the injuries sustained by one Chinnakunnu, the first respondent herein in the accident occurred on 17.04.2012. The appeal is only on the question of quantum.

2. Heard Mr.M.B.Raghavan, learned counsel appearing for the appellant and Mr.M.Selvam, learned counsel appearing for the respondent/claimant.

3. It is seen from the records that the first respondent/claimant suffered injuries namely fracture of right thigh region, proximal femoral nail surgery, fracture in right hand, right femur and in right ulna. He underwent surgery and K-wire fixation was done. It is seen that because of the fracture, the first respondent/claimant sustained 65% disability. The claimant underwent

the following surgery for the injuries suffered by him in the accident. Open reduction, internal fixation with ulna plating, screws right side and Proximal femur nailing right side was also done. Subsequently, screw fixation in right PFN was also done. Debridement and SSG Right knee, Primary skin suturing in right leg was also done. Therefore, the determination of the Tribunal is confirmed as it was done as per medical records.

4. Since the claimant was working as a mason and he was aged about 45 years, the monthly income was rightly determined at Rs.6500/- per month. Even though he claimed Rs.10,000/- per month the determination of Rs.6500/- was done by the Tribunal is inconsonance with the judgement of the Hon'ble Supreme Court in Syed Sadiq v. Divisional Manager, United India Insurance Co.Ltd. Reported in 2014 (1) TN MAC 459 (SC). Therefore, Rs.6500/- determined by the Tribunal is confirmed. As per the age of the claimant, the appropriate multiplier is 14 and the same was rightly adopted by the Tribunal. Therefore, the loss of income worked out to $\text{Rs.6500} \times 12 \times 14 \times 65/100 = \text{Rs.7,09,800/-}$ by the Tribunal, cannot be found fault with. Rs.50,000/- awarded towards pain and suffering, Rs.40,000/- awarded towards nutrition and Transportation, Rs.25,000/- awarded towards attender charges, Rs.1,94,217/- awarded towards medical expenses as per Ex.P11 medical bills, Rs.50,000/- awarded towards loss of amenities are all reasonable and the same are confirmed. Rs.39,000/- awarded towards partial loss of income is deleted as it would amount to double payment. For future medical expenses Rs.1,00,000/- awarded by the Tribunal is on the higher side and therefore, it is reduced to Rs.25,000/-. Hence, the amount Rs.12,08,017/- awarded by the Tribunal is reduced to Rs.10,84,017/- and rounded to Rs.10,84,000/-

5. The appellant is directed to deposit the entire award amount along with interest and costs within four weeks from the date of the receipt of a copy of the order. The rate of interest at 6% per annum awarded by the Tribunal is enhanced to 7.5% per annum. On such deposit, the claimant is permitted to withdraw the entire award amount within one week. The appeal is disposed of. No costs. Consequently the connected M.P.No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

vk

To

Motor Accidents Claims Tribunal,
Special Subordinate Judge,
Krishnagiri.

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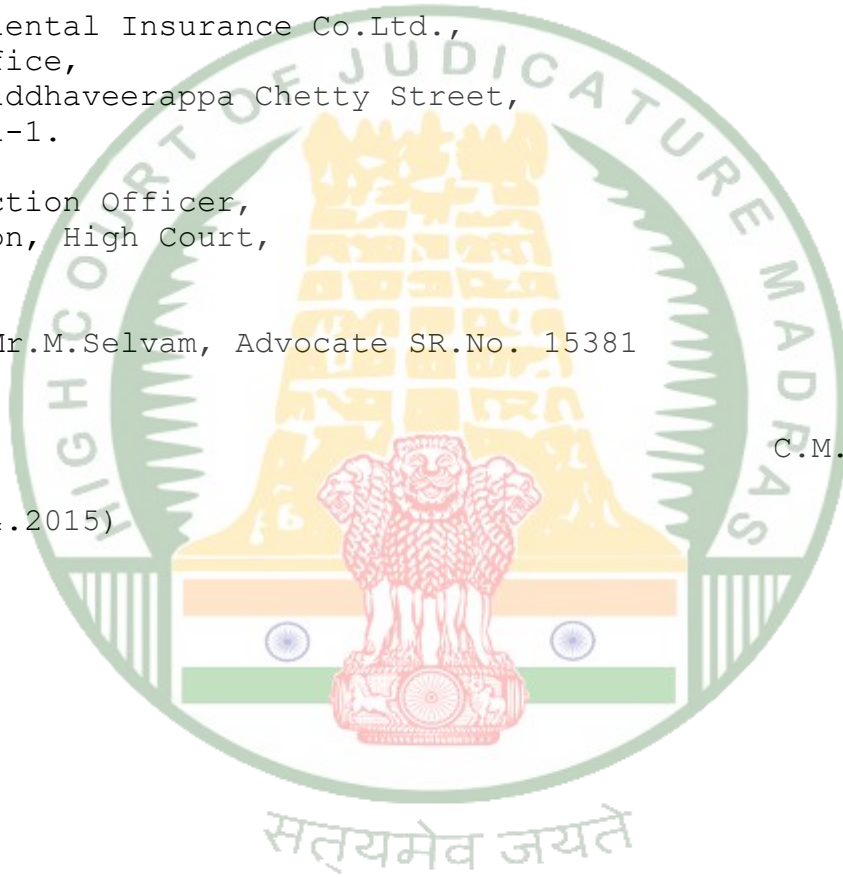
1. The Oriental Insurance Co.Ltd.,
Branch Office,
No.3-L, Siddhaveerappa Chetty Street,
Dharmapuri-1.

2. The Section Officer,
V.R.Section, High Court,
Madras.

1 CC to Mr.M.Selvam, Advocate SR.No. 15381

MG (CO)
PSI (09.04.2015)

C.M.A.No.482 of 2015



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