

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.3542 of 2011

M/s United India Insurance Co.Ltd.,
13-A, Nethaji Road
Cuddalore

.. Appellant/ Respondent II

-Vs-

1. Minor Sudha
D/o Vadivel
rep.by father, guardian NF, N.Vadivel

2. Thiru.Radhakrishnan
S/o Duraikannu

3. Thiru.K.Venkatesan .. Respondents/ Petitioner &
1 & 3 Respondent

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 27.04.2010 made in M.C.O.P.No.527 of 2005 on the file of the Motor Accidents Claims Tribunal (First Additional Subordinate Judge), Cuddalore.

For Appellant :: Mr.J.Chandran

For Respondents :: Not ready in notice reg.R1 to R3

JUDGMENT

Challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, First Additional Subordinate Judge, Cuddalore in M.C.O.P.No.527 of 2005 dated 27.04.2010, M/s United India Insurance Company Limited has preferred this civil miscellaneous appeal.

2. Heard the learned counsel for the appellant.

3. A perusal of the impugned award shows that the minor girl Sudha, D/o Vadivel, the first respondent herein, while travelling in the second respondent's vehicle bearing Registration No.TN 31 C 2208 on 16.3.2004 at 7.30 hours on the Karukai-Meliruppu main road near Semmedu cross road to load cashew nuts, since the driver of the offending vehicle drove the vehicle in a rash and negligent manner and hit against the jeep bearing Registration No.TN 31 D 9209, due to the impact, the minor girl, the first respondent herein sustained head injury, sutured wound on forehead, eye sight was affected, injury on ears and multiple grievous injuries all

over her body. Hence the first respondent filed the claim petition before the Tribunal claiming compensation of Rs.1,00,000/- on the ground that the minor girl was aged about 15 years at the time of accident and was earning Rs.75/- per day as agricultural coolie.

4. Though the claim was resisted by both the owner of the vehicle and the insurance company that they are not liable to pay any compensation, the Tribunal, based on the evidence let in by the claimant through her father and natural guardian, PW1 and considering Ex.P1-FIR copy and Exs.P2 & P3-Motor Vehicle Inspector's reports, held that the deceased was grievously injured in the road traffic accident due to the rash and negligent driving of the driver of the second respondent's vehicle. The Tribunal, while deciding the reasonable compensation to be payable to the first respondent-claimant, in the light of the ratio laid down by the Apex Court in R.D.Hattangadi v. Pest Control India Private Ltd., 1995 ACJ 366 (SC), fixed the monthly income of the injured at Rs.2,000/- per month in the absence of sufficient proof produced in respect of her income and occupation. Considering the age and the injuries sustained by the claimant, the Tribunal fixed the partial permanent disability at 15% and awarded a sum of Rs.30,000/- towards partial permanent disability at the rate of Rs.2,000/- per percentage of disability, based on Ex.P4-accident register, and Ex.P13-disability certificate issued by the doctor P.W2. In addition thereto, the Tribunal awarded a sum of Rs.10,000/- towards pain and sufferings and mental agony, Rs.5,000/- towards medical & travel expenses and extra nourishment and Rs.2,000/- towards loss of income for one month since the injured claimant was taking treatment from 16.3.2004 to 27.3.2004 at Government Hospital, Cuddalore through Ex.P5-OP chit., totalling in all a sum of Rs.47,000/- along with interest at the rate of 7.5% per annum. Therefore, this Court does not find any ground to interfere with the just compensation arrived at by the Tribunal, as the same has been based on evidence let in by the parties. Accordingly, finding no merits, the civil miscellaneous appeal is dismissed. The appellant is directed to deposit the balance 50% award amount to the credit of the M.C.O.P.No.527 of 2005 on the file of the Motor Accidents Claims Tribunal, First Additional Subordinate Judge, Cuddalore within a period of four weeks from the date of receipt of a copy of this order and on such deposit, it is open to the first respondent claimant to withdraw the entire amount along with accrued interest by making necessary application before the Tribunal. Consequently, interim order stands vacated and the M.P.No.1 of 2011 is also dismissed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

ss

To

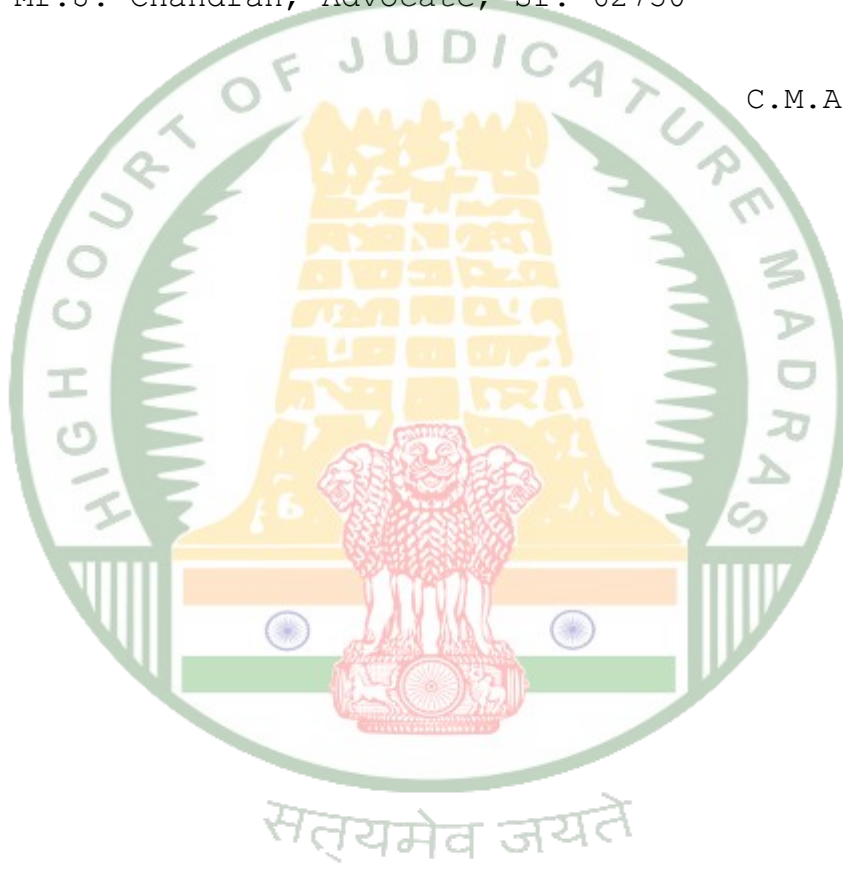
1. The Motor Accidents Claims Tribunal
First Additional Subordinate Judge
Cuddalore

2. The Section Officer
VR Section,
High Court, Madras

1 cc to Mr.J. Chandran, Advocate, Sr. 62750

C.M.A.No.3542 of 2011

SR (CO)
kk 6/1



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