

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2015

CORAM

THE HON'BLE MR.JUSTICE N. KIRUBAKARAN

C.M.A.No.2638 of 2014

and

M.P.No.1 of 2014

The Divisional Manager,
IFFCO - TOKIO,
General Insurance Company Ltd.,
No.145/131, Ground Floor,
Nelson Manickam Road,
Metha Nagar, Chennai

...Appellant (2nd Respondent)

/vs/

1.Minor Anuvidhya
rep. by her next friend and
guardian & mother
Jagadhambal

2.Kumar
[R2 set exparte)

...Respondents (Petitioner & 1st Respondent)

Prayer: Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the Award made in MCOP No.150/2010 dated 26.07.2013 on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate) Thiruvannamalai and allow this appeal.

For Appellant : Mr.C.R.Krishnamoorthy

For Respondents : Mr.B.Jawahar [R1]

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the award of Rs.1,37,000/- passed by the Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court), Tiruvannamalai, as compensation for the injuries sustained by the first respondent, minor claimant, in the accident that had occurred

on 26.06.2010.

2. Heard the parties and perused the records.

3. It is evident from the records that the first respondent/minor claimant, sustained disability viz., fracture in the right thigh and in the jaws. Based on PW2 doctor's evidence and other medical records, the Tribunal rightly determined the disability at 20% and awarded Rs.40,000/- towards disability. The other amounts, namely, Rs.20,000/- towards pain and suffering, Rs.10,000/- towards extra nourishment, Rs.5,000/- each towards transportation and attendant charges, Rs.1,000/- towards "Damages caused to articles" and Rs.56,000/-towards "Medical Expenses" based on Ex-P9 medical bills are also reasonable and they are confirmed. The award of Rs.1,37,000/- granted by the Tribunal as compensation along with interest at 7.5% per annum is reasonable and the same is confirmed. Hence this appeal fails and the same is dismissed.

4. Since the driver of the offending vehicle did not have a valid driving licence, pay and recovery was ordered by the Tribunal and the same is confirmed as the said finding is based on evidence.

5. It is represented by the learned counsel for the appellant that the entire award amount was already deposited before the Tribunal. In view of that, the Tribunal is directed to re-invest the same in interest bearing Fixed Deposit in any one of the Nationalised Banks till the 1st respondent/minor claimant attains majority. The mother of the 1st respondent is permitted to withdraw interest accruing on such deposit once in three months.

6. The appellant Insurance Company is at liberty to take steps to recover the amount deposited by them from the owner of the offending vehicle.

6. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar

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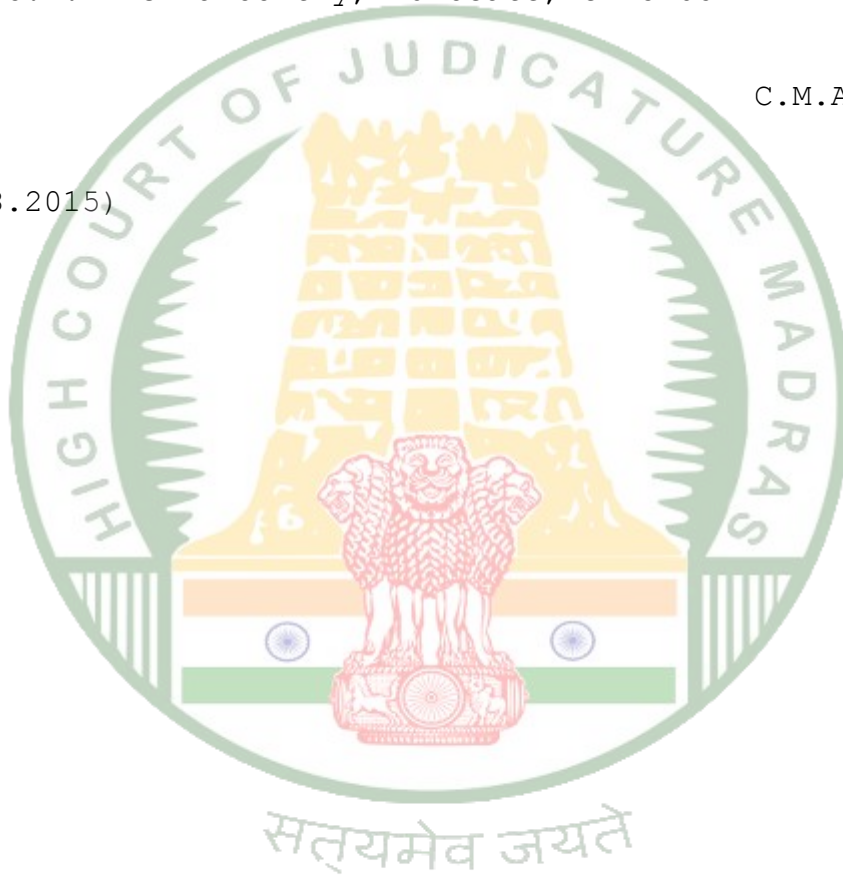
The MACT
(Chief Judicial Magistrate Court),
Tiruvannamalai.

1 CC to Mr.B.Jawahar, Advocate, SR 31971

1CC to Mr.C.R.Krishnamoorthy, Advocate, SR 31852

C.M.A.No.2638 of 2014

CNR (CO)
PSI (11.08.2015)



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