

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 3651 of 2014

&

M.P. No. 1 of 2014

M/s. National Insurance Co. Ltd.,  
Branch Manager,  
Near Poonam Cinema Hall,  
Lalsot Road,  
Dhousa - 303 303.

..Appellant/ 3rd Respondent

Vs.

1. Mrs. Vimala Peters
2. Mr. Mukeshkumar
3. Mr. Yokesh Kumar Sharma

..Respondents/ Petitioner  
and 1 & 2 Respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree passed in M.C.O.P. No. 7082 of 2013 (M.A.C.T. No. 743/2009 B.T. No. 275/2009 on the file of MACT, Dausa (Rajasthan)) dated 07.02.2014 by the Motor Accidents Claims Tribunal (Small Causes Court-II Judge) at Chennai District.

For Appellant :: Mr.J. Chandran

For Respondents:: Mr.J. Mahalingam for R1

सत्यमेव जयते  
J U D G M E N T

This Civil Miscellaneous Appeal has been preferred as against the award of Rs.9,01,345/- granted in favour of the 1<sup>st</sup> respondent for the injuries sustained by her in the accident that occurred on 22.11.2007, when she was hit by a jeep, owned by the 3<sup>rd</sup> respondent and insured with the appellant, which was driven rashly and negligently, by the 2<sup>nd</sup> respondent, while travelling along with others in an Innova car.

2. The 1<sup>st</sup> respondent/claimant filed the claim petition seeking compensation to the tune of Rs. 31,45,000/- . On enquiry, the Tribunal found that the accident occurred because of the rash

and negligent driving of the Jeep and awarded a sum of Rs. 9,01,345/-. The said award is being challenged by the Insurance Company.

3. Heard Mr.J. Chandran, learned counsel for the appellant and Mr.J.Mahalingam, learned counsel for the 1<sup>st</sup> respondent/claimant.

4. A perusal of the award would show that almost, under all the heads, reasonable amounts were given, except the double payment in respect of "Pain and Suffering" and "Loss of Earning Capacity". Having awarded Rs.50,000/- towards "Pain and Suffering", Rs.50,000/- should not have been given separately for "Mental Agony". Therefore, Rs.50,000/- awarded towards "Mental Agony" is deleted. Likewise, towards 50% disability, a sum of Rs. 1Lakh was given and therefore, the sum of Rs. 75,000/- awarded towards "Loss of earning capacity" would amount to double payment and the same is deleted. The sum of Rs. 50,000/- awarded towards "Extra nourishment" is too low and the same is enhanced to Rs.75,000/-. Hence, the award of Rs. 9,01,345/- is reduced to Rs.8,01,345/- with interest @ 7.5% per annum.

5. The appellant is directed to deposit the modified award amount with interest and costs within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1<sup>st</sup> respondent/claimant is permitted to withdraw the same within a period of two weeks thereafter. If the appellant had already deposited the entire award amount, as per the judgment of the Tribunal, then the balance amount shall be refunded to the appellant. The Civil Miscellaneous Appeal is partly allowed. No costs. Connected M.P. is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

nv

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To

The MACT (II Judge, SCC),  
Chennai.

1 cc to Mr.J. Chandran, Advocate, sr. 955

1 cc to Mr.J. Mahalingam, Advocate, sr. 1698

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NM (CO)  
kk 21/2



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