

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

C.M.A.No.463 of 2008

and

M.P.No.1 of 2008

The Oriental Insurance Co. Ltd.,
60, Kumaran Street, 1st Floor,
Tirupur

.. Appellant/Respondent-III

vs.

1. Thiru.Senthil @ Senthilkumar

.. Respondent-I/Petitioner

2. Thiru.R.Aruchamy

.. Respondent-II/Respondent-I

3. Thiru.Shri Chendur Process,
Thoiyan Thottam,
Pechampalayampudur, P.N.Road,
Tirupur, Coimbatore Dt.

... Respondent-III/Respondent-I

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 04.04.2007 passed in M.C.O.P.No.355 of 2006 on the file of the Motor Accidents Claims Tribunal (Additional District Judge, F.T.C.III), Dharapuram, Erode District

For Appellant : Mr.J.Chandran

For Respondents: No appearance

J U D G M E N T

The Oriental Insurance Co. Ltd. is on appeal challenging the award dated 04.04.2007 passed in M.C.O.P.No.355 of 2006 on the file of the Motor Accidents Claims Tribunal (Additional District Judge, F.T.C.III), Dharapuram, Erode District.

2. It is a case of injury. On 21.05.2001 at about 7.45 a.m., when the injured claimant was proceeding in his TVS-50 Moped towards North, on the western edge of the North South Tiruppur to P.N.Road, near P.R.Complex, the lorry driven by the first respondent came in a rash and

negligent manner and hit against the claimant. As a result, the claimant was thrown off and sustained grievous injuries. Due to the accident, the claimant sustained a fracture over his right leg, left foot and bleeding injuries all over his body. Thereafter, the claimant was taken to the Ganga Hospital at Coimbatore for treatment wherein he had taken treatment for a period of 30 days as an inpatient. Hence, the claimant has filed a claim for compensation in a sum of Rs.6,00,000/- According to the claimant, he was working as a driver at private Baniyan Company at Tirupur and was earning a sum of Rs.3,500/- per month.

3. In support of the claim, the claimant was examined as P.W.1. Dr.Periyasamy, who had given the disability certificate was examined as P.W.2 and Dr.Pushpa Selvin was examined as P.W.3. Exs.P-1 to P-11 were marked, the details of which are as follows:-

Ex.P-1 is the copy of FIR dated 21.05.2001

Ex.P-2 is the copy of MVI report

Ex.P-3 is the copy of the wound certificate

Ex.P-4 is the discharge summary

Ex.P-5 is the copy of driving license

Ex.P-6 is the policy of the lorry

Ex.P-7 is the copy of driving licence of the lorry driver

Ex.P-8 is the photos of the claimant

Ex.P-9 is the disability certificate

Ex.P-10 is the x-ray

Ex.P-11 is the original of the treatment notes by Ganga Hospital

The driver of the lorry was examined as R.W.1. No documents were marked on the side of the respondent.

4. The Tribunal, based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that there was no engine default in the lorry and the lorry was sent for inspection to the Motor Vehicle Inspector, came to conclusion that the accident had occurred only due to the rash and negligent act of the driver of the respondent and consequently fixed the liability on the Insurance Company to compensate the claimants. On this issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived by the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl.No.	Head	Amount granted by the Tribunal
1	Loss of permanent disability at 48%	Rs. 56,000/-
2	For Pain and suffering	Rs. 15,000/-
3	For Transport Expenses	Rs. 2,000/-
4	For Extra Nutrition	Rs. 3,000/-
5	Loss of income during the period of treatment (Rs.1,800/- per month x 53 days)	Rs. 3,180/-
6	For taking x-ray	Rs. 100/-
7	For future loss of amenities	Rs. 50,000/-
	Total	Rs.1,29,280/-

6. Insofar as the compensation is concerned, based on the evidence of P.W.2 and the disability certificate, the Tribunal fixed the compensation towards permanent disability at Rs.56,000/-, which is justified. Since the claimant had not proved his income by way of any supporting document, the Tribunal awarded compensation for the period in treatment as inpatient at Rs.3,180/-, which is also justified. The Tribunal did not award any amount towards medical expenses, as the claimant had not produced any medical bills.

7. There is no serious objection in respect of the other amounts granted or the interest granted at 7.5% per annum.

8. Finding no merit, the Civil Miscellaneous Appeal is dismissed. It is stated that the appellant had deposited the entire compensation amount. The claimant is permitted to withdraw the amount lying in deposit along with accrued interests and costs, if any. No costs. Consequently, the connected miscellaneous petition is closed.

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Assistant Registrar

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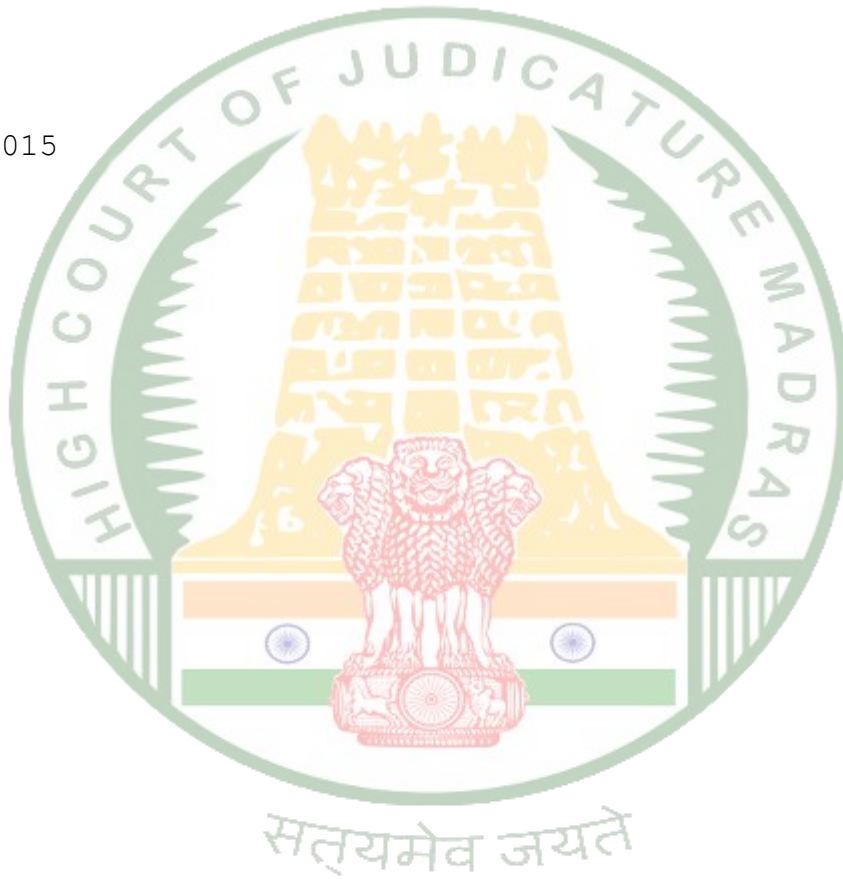
Sub-Assistant Registrar

To

The Additional District Judge,
FTC-III,
(Motor Accidents Claims Tribunal)
Dharapuram, Erode District

C.M.A.No.463 of 2008
& M.P.No.1 of 2008

PA (CO)
sd : 15/10/2015



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