

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.976 of 2012

and

M.P.No.1 of 2012

The Branch Manager,
M/s.Oriental Insurance Co., Ltd.,
Branch Office,
No.3-L, Sidhaveerappa Chetty Street,
Dharmapuri 636 701.

... Appellant

Vs.

1.Chandrasekaran
2.A.Kannammal

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree passed by the Motor Accident Claims Tribunal, (Principal District Judge) Krishnagiri District, in M.C.O.P.No.842 of 2007 dated 10.10.2010 for awarding compensation.

For Appellant : Mr.J.Chandran

For 1st Respondent : Mr.P.Mani

JUDGMENT

The appeal has been preferred by the appellant / Insurance Company, against the award of Rs.65,000/- as compensation, for the injuries sustained by the first respondent in the accident occurred on 05.03.2007.

2. It is contended by Mr.J.Chandran, learned counsel appearing for the appellant that the rider of the two wheeler was responsible for the accident and he is the tort feisor and cannot maintain the

claim petition. Taking into consideration, the FIR which was registered against the driver of the tractor-trailer and also P.W.2's evidence the Tribunal rightly came to the conclusion that the accident was caused by the tractor-trailer.

3. It is also contended by Mr.J.Chandran, learned counsel for the appellant that three persons were travelling in the two wheeler. However, there is no evidence to show that travel of three persons in the two wheeler, alone caused the accident and hence, the said contention is not sustainable. Moreover, it is not even pleaded in the counter statement.

4. The claimant had sustained grievous injuries on his left knee and bone fracture and because of that he is unable to use left leg and unable to walk, run or do hard manual work. Though, P.W.3, doctor had assessed the disability at 30%, the Tribunal had only determined the disability at 20% and the same is hereby confirmed.

5. Since the claimant is doing tomato business and earning Rs.5,000/- p.m., the Tribunal awarded Rs.2,000/- per percentage and awarded Rs.40,000/- towards disability; Rs.15,000/- was rightly awarded towards transportation and extra nourishment and other medical expenses and Rs.10,000/- was rightly awarded towards pain and suffering. In all amounting to Rs.65,000/- along with interest at the rate of 6% p.a. are hereby confirmed.

6. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

7. The appellant-Insurance Company is directed to deposit the entire award amount along 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 first respondent/claimant is permitted to withdraw the entire award amount along with interest.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kkd

To

The Motor Accident Claims Tribunal,
Principal District Judge,
Krishnagiri District.

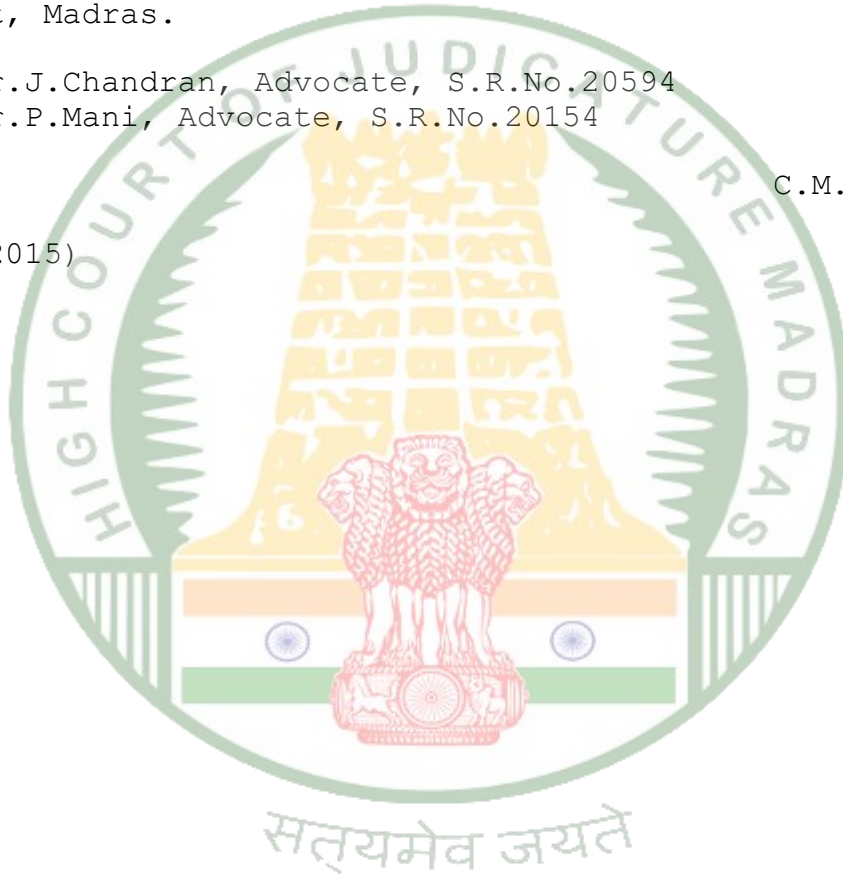
Copy To

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

+1cc to Mr.J.Chandran, Advocate, S.R.No.20594
+1cc to Mr.P.Mani, Advocate, S.R.No.20154

C.M.A.No.976 of 2012

LRS (CO)
CA(03/06/2015)



WEB COPY