

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2015

CORAM :

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.M.A. No.3623 of 2006

and

M.P. No. 2 of 2006

The Divisional Manager,
M/s.United India Insurance Co. Ltd.,
J.N.Street, Pondicherry-1. ... Appellant/2nd Respondent

vs.

1.Veerappan ...1st Respondent/Petitioner.
2.M.A.Nehru Edwin Raj ...2nd Respondents/1st Respondent.

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment made in M.C.O.P No.298 of 1999 dated 22.01.2004 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge), Pondicherry.

For appellant : Mr. N.Vijayaraghavan
For respondent : No appearance for R1
R2-Exparte

JUDGMENT

The second respondent Insurance Company is the appellant herein. For the sake of convenience the parties are referred to as per their rank before the Tribunal.

2. The present appeal is filed against the Award of compensation of Rs.2,28,483/- to the injured claimant. The Tribunal on the basis of the oral evidence of the petitioner and his Doctor and on the basis of the exhibits Ex.A2 -Accident Register, Ex.A6 - Medico-Legal Examination Report, Ex.A7 - Discharge summary by Kannan Hospital, Cuddalore, Ex.A8-Discharge summary by Dr. Neelakrishnan, Ex.A10 -Cash receipt, Ex.A11 to A13 -Medical receipts and Medical Bills, Ex.A14 -Certificate issued by Dr. Neelakrishnan, Exs.A15 & A16 -Certificates issued by two Construction companies, Ex.A18 -Disability Certificate and Ex.A19 -X Ray, found that the petitioner was, at the time of accident, 48 years and was earning an average income of Rs.100/- per day and he sustained fracture in the upper tibia on the right leg, which is grievous in nature and he was treated as in-

patient for 30 days and he has been under continuous treatment and the fracture was mal-united and there was shortening of right leg by 2 cms. and due to the serious injuries sustained by him, he has permanent edema on right ankle and foot and there is restriction of knee movements and hence the permanent disability assessed at 42%, is reasonable. The Tribunal, on the basis of such findings awarded the compensation as follows :

Sl. No.	Heads	Amount granted
1	Loss of income $3000 \times 12 \times 13 \times 42 / 100$	Rs. 1,96,560.00
2.	Pain and Sufferings	Rs. 5,000.00
3.	Medical Expenses	Rs. 3,923.00
4.	Loss of income during treatment	Rs. 3,000.00
5.	Mental Agony & Nourishment	Rs. 20,000.00
	Total	Rs. 2,28,483.00

3. The insurance company has filed the present appeal questioning the correctness of the award, on the issue of quantum, however, this Court, considering the age, nature of avocation, permanent disability sustained and the duration of the treatment undergone by the claimant, his loss of earning capacity etc., does not find any reason to interfere with the award of the Tribunal.

4. In the result, the Civil Miscellaneous Appeal is dismissed. The Insurance Company is directed to deposit the entire award amount, with interest and cost, after deducting the amount that has already been deposited by them, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent/claimant is permitted to withdraw the entire award amount, with the accrued interest, on due cheque application. Consequently, the connected M.P is closed. No costs.

avr

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

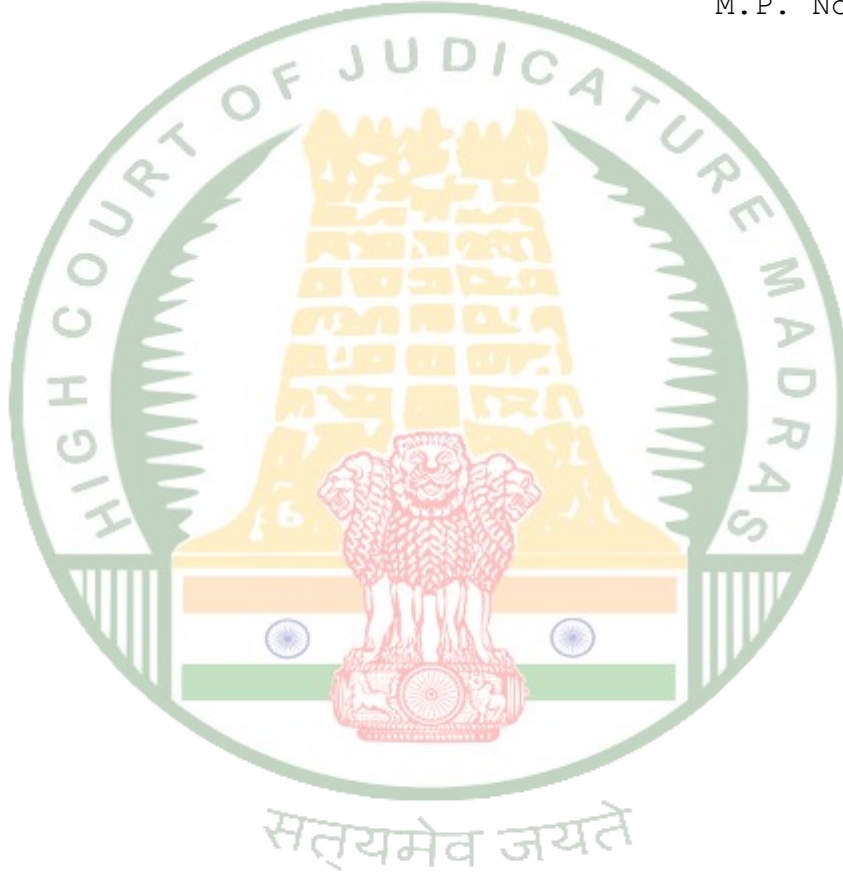
To

The Motor Accident Claims Tribunal
II Additional District Judge,
Pondicherry.

+ 1 cc to M/s.M.B.Gopalan, Advocate SR 42956

rsk(co)
prk15/10

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