

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 07.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.1124 of 2016
and
C.M.P.No.8539 of 2016

The Branch Manager,
United India Insurance Company Limited,
No.470, G.N.T.Road,
Red Hills, Thiruvallore
Tamil Nadu - 600 052.Appellant/2nd Respondent

...vs...

1.Ramasamy Respondent No.1/Petitioner
2.Devendiran Respondent No.2/1st Respondent

Prayer: Civil Miscellaneous Appeal is filed against the judgment and decree dated 05.08.2015 passed in M.C.O.P.No.843 of 2013 on the file of the Motor Accident Claims Tribunal (Additional District Judge), Namakkal.

For Appellant :M/s.R.Sree Vidhya
For R1 :Mr.C.Kulanthaivel

JUDGMENT

Questioning the liability, the Insurance Company being the second respondent in the claim petition stands before this Court with this Appeal under Section 173 of Motor Vehicles Act 1988.

2. The first respondent being the claimant had moved the claims Tribunal with a claim petition in M.C.O.P.No.843 of 2013, claiming, totally a sum of Rs.10 lakhs for the injuries sustained by him in a road traffic accident said to have been taken place on 08.05.2013 involving a two wheeler, bearing registration No.TN 47 AY 6649 as well as a lorry bearing registration No.AP 02 T 1517 and in the said accident, the first respondent had sustained fracture of right hand wrist, and grievous injury over chin and chest. The appellant / Insurance Company had resisted the claim. However, the tribunal, based on the evidences, both oral and documentary had proceeded to pass an award, granting a sum of Rs.1,53,713/- under the following heads:-

The disability of the first respondent was assessed at 25%, calculating the loss of earning capacity based on the said percentage, the tribunal had awarded a sum of Rs.50,000/- (@ of Rs.2,000/- per 1%).

2. Towards medical expenses as per Ex.P6 of	Rs.14,213/-
3. Towards loss of earning for 3 months (6500x3)	Rs.19,500/-
4. Towards transport Charges for	Rs. 5,000/-
5. Towards pain and suffering	Rs.25,000/-
6.Towards nutrition charges for	Rs. 5,000/-
7.Towards attender charges	Rs.10,000/-
8.Towards future damages	Rs.25,000/-
Total	Rs.1,53,713/-

3. M/s.R.Sree Vidhya, learned counsel for the appellant has submitted that the first respondent being the claimant had also contributed his negligence to the extent of 25% and this issue had not been discussed and that the contention made on behalf of the appellant/Insurance Company was also not considered by the tribunal.

4. Mr.C.Kulanthaivel, learned counsel for the first respondent has submitted that if the Court was inclined to consider the submission made by the learned counsel for the appellant, then 10% towards the negligence of the 1st respondent might be deducted from the total compensation. The learned counsel for the appellant is in agreement with the suggestion made by the learned counsel for the respondent. Out of Rs.1,53,713/-, 10% towards the negligence of 1st respondent comes to Rs.15,371/- After giving deduction the remaining balance would be Rs.1,38,342/- and the appellant/Insurance Company is directed to deposit this amount with interest at the rate of 7.5% per annum, less the amount already deposited if any by the appellant / Insurance Company. On such deposit being made the 1st respondent/claimant is at liberty to withdraw the entire amount without actually filing any formal application, seeking permission.

5.Accordingly, this Civil Miscellaneous Appeal is disposed of. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-IV)

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Sub Assistant Registrar

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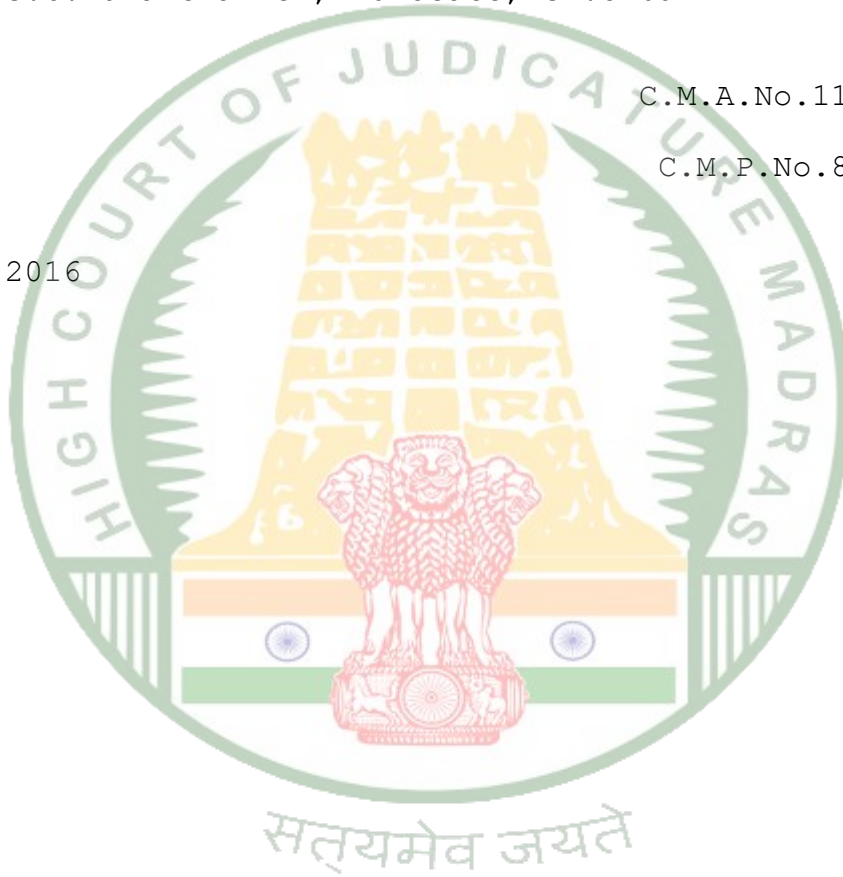
1.The Motor Accident Claims Tribunal
(Additional District Judge),
Namakkal.

2.The Section Officer,
VR Section, High Court, Madras.

1 cc to M/s.C.Kulanthaivel, Advocate, sr.31091

C.M.A.No.1124 of 2016
and
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