

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 07.06.2016

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THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.3749 of 2011

and

M.P.No.1 of 2011

M/s.United India Insurance Co.Ltd.,
No.1090, Poonamallee High Road,
Chennai - 600 084.Appellant/2nd Respondent

...vs...

1.BalajiR1/Petitioner
2.G.Dhanapal
(R2 set exparte in the lower Court ... Respondents No.2/R1

Prayer: Civil Miscellaneous Appeal is filed against the judgment and decree dated 07.07.2011 made in M.C.O.P.No.4186 of 2008 on the file of the Motor Accident Claims Tribunal (V Judge, Court of Small Causes) at Chennai.

For Appellant :Mr.R.Ravichandran

For R1 : Mr.N.Kamaraj

For R2 :set exparte in the lower Court

JUDGMENT

Questioning the quantum of compensation, this appeal is filed by the appellant/Insurance Company under Section 173 of Motor Vehicle Act, 1988.

2. Claiming a sum of Rs.1,00,000/-, the first respondent had moved the Motor Accident Claims Tribunal for the injuries sustained by him in a road traffic accident said to have been taken place on 30.07.2007 at 4.00 p.m involving a motor cycle bearing Regn.No.TN 02 Z 8723 and a Tractor bearing Regn.No.TN 21 P 9063.

3. It is alleged in the claim petition that the tractor bearing Regn.No.TN 21 P 9063 had hit against the claimant (R1). When he was travelling as a pillion rider in a motor cycle bearing Regn.No.TN 02 Z 8723, from Maduranthangam to Vellaputhur Village along Uthiramerur Road, the accident was taken place due to the negligent act on the part of the driver of the tractor.

4. The appellant/Insurance Company is the insurer of the tractor whereas, the second respondent herein is the owner of the vehicle. While, the second respondent remained exparte, the appellant/Insurance Company had contested the claim. However, the Tribunal, based on the evidences available on record, had proceeded to pass an award of Rs.99,500/- directing the appellant/Insurance Company to pay the said amount to the claimant with interest at the rate of 7.5%.

5. The records would further revealed that one Kuppan, who is the claimant in M.C.O.P.No.4187 of 2008 was riding the motor cycle, while, the first respondent/claimant in this appeal was sitting on the pillion of the two wheeler. The claim petition in M.C.O.P.No.4187 of 2008 filed by the said Kuppan and another claim petition in M.C.O.P.No.4186 of 2008 filed by the first respondent/claimant in this appeal were consolidated together. The evidences were also recorded in common and they both were disposed of in a common award dated 07.07.2011.

6. This Court is kept in dark on the fact as to whether any appeal was preferred against the award passed by the Tribunal in respect of the claim petition in M.C.O.P.No.4187 of 2008.

7. In sofaras the claim petition relating to the present appeal is concerned, the first respondent/claimant had sustained fracture over his left leg, left hand and the bones were found to be malunited.

8. P.W.3, Dr. K.J.Mathialagan had assessed the disability of the claimant at 50% and to that effect he had issued a Disability Certificate under Ex.P16. At the time of occurrence, the claimant was aged about 26 and his monthly income was determined at Rs.3,000/- Therefore, the loss of earning for 3 months was determined at Rs.9,000/-. Apart from this, the Tribunal had also awarded compensation under the following heads:-

Towards loss of earning	Rs. 9,000/-
Towards Transportation	Rs. 1,500/-
Towards Nutrition	Rs. 4,000/-
Towards damages to clothes	Rs. 1,000/-
Towards medical expenses	Rs. 55,868/-
Towards attender charges	Rs. 3,000/-
Towards pain and sufferings	Rs. 5,000/-
Towards permanent disability	Rs. 20,000/-

Total	Rs. 99,368/-

9. It is significant to note here that though P.W.3 Doctor had assessed the actual disability at 50%, it was reduced to 20% by the Tribunal. Totally, the Tribunal had awarded a sum of Rs.99,500/- towards compensation for the injuries sustained by the claimant.

10. It is pertinent to note here that the claim is actually Rs.1,00,000/- and the Tribunal had awarded a sum of Rs.99,500/-.

11. Keeping in view of the above fact, this Court does not find any discrepancy or infirmity in the award.

12. Hence, this appeal is dismissed and the award passed by the Tribunal is confirmed. The appellant/Insurance Company is directed to deposit the award amount of Rs.99,500/- with interest at the rate of 7.5% per annum 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 entitled to withdraw the entire award amount along with accrued interest and costs without filing any formal petition, seeking permission. Consequently, connected Miscellaneous Petition is closed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal (V Judge,
Court of Small Causes)
Chennai.

2.The United India Insurance Co.Ltd.,
No.1090, Poonamallee High Road,
Chennai - 600 084.

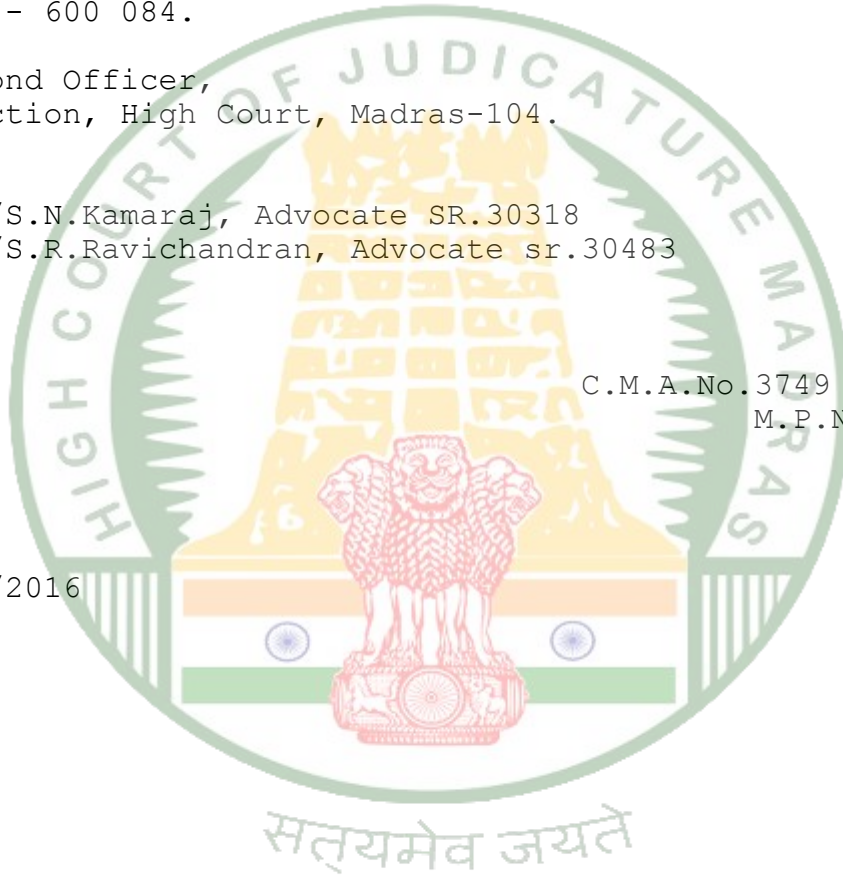
3.The Second Officer,
V.R. Section, High Court, Madras-104.

+lcc to M/S.N.Kamaraj, Advocate SR.30318

+lcc to M/S.R.Ravichandran, Advocate sr.30483

C.M.A.No.3749 of 2011 and
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