

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.850 of 2016

M/s.Reliance General Insurance Company Ltd.,
Sri Lakshmi Complex, I Floor,
Bharathi Street,
Omalur Main Road,
Swarnapuri, Salem - 4.

... Appellant/2nd Respondent

Vs.

1.Rayar
2.Murugesan

... Respondents/Petitioners
& 1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 05.06.2014 made in M.C.O.P No.636 of 2012 on the file of the Motor Accidents Claims Tribunal, Special Sub-Judge II, Salem.

For Appellant : Mr.K.Moorthy

J U D G M E N T

Challenging the award of the Tribunal mainly on the question of quantum, the Insurance Company has come up with this appeal.

2. For the injuries sustained in an accident which occurred on 02.12.2011, the injured claimant filed a claim petition before the Tribunal seeking a sum of Rs.5,00,000/- as compensation. The Tribunal, on consideration of the oral and documentary evidence, awarded a sum of Rs.1,22,500/- as compensation to the claimant with interest at 7.5% per annum. Details of the award are as under:

S.No.	Heads	Amount
1	35% Permanent Disability	Rs. 70,000.00
2	Pain and Suffering	Rs. 20,000.00
3	Medical expenses	Rs. 5,800.00
4	Loss of Amenities	Rs. 10,000.00
5	Transportation charges	Rs. 2,000.00

S.No.	Heads	Amount
6	Extra nourishment	Rs. 3,000.00
7	Attender Charges	Rs. 3,000.00
8	Damages to Clothes	Rs. 700.00
9	Loss of income (Rs.4000/- x 2)	Rs. 8,000.00
	Total	Rs. 1,22,500.00

3. Learned counsel for the appellant/Insurance Company contended that the Tribunal ought not to have taken the permanent disability of the claimant at 30% considering the nature of injuries sustained by him.

4. According to the injured claimant, at the time of accident, he was aged 50 years, doing coolie work and earning a sum of Rs.7,500/- per month. But the Tribunal, fixed his income at Rs.4000/- per month. The Apex Court, in the case of Syed Sadiq and others vs Divisional Manager, United India Insurance Co. Ltd. (2014 ACJ 627), fixed the notional income of a vegetable vendor at Rs.6,500/-. In view of the said judgment, this Court is of the view that the income fixed by the Tribunal at Rs.4000/- per month is not excessive.

5. According to the claimant, as he sustained heady injury, he has giddiness and suffers from absent-mindedness, due to which, he is unable to travel to any place alone. P.W.2 - Doctor deposed that the claimant sustained lacerated injuries in his left cheek, left eyebrow, stitches in face, bone fracture around left eye and assessed his disability at 45%. However, the Tribunal fixed the permanent disability of the claimant at 35% and taking Rs.2,000/- for each percentage of disability, awarded a sum of Rs.70,000/- towards permanent disability, which, in view of this Court is not excessive, considering the injuries sustained by him.

6. As far as other heads are concerned, this Court feels that only a meagre sum has been awarded towards the same and hence, they do not require any interference.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the appellant/Insurance Company is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.636 of 2012 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge-II, Salem, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account

Payee Cheque, favouring only him and it should not be issued in favour of any other person/Company. No costs. Consequently, connected C.M.P.No.6920 of 2016 is closed.

8. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

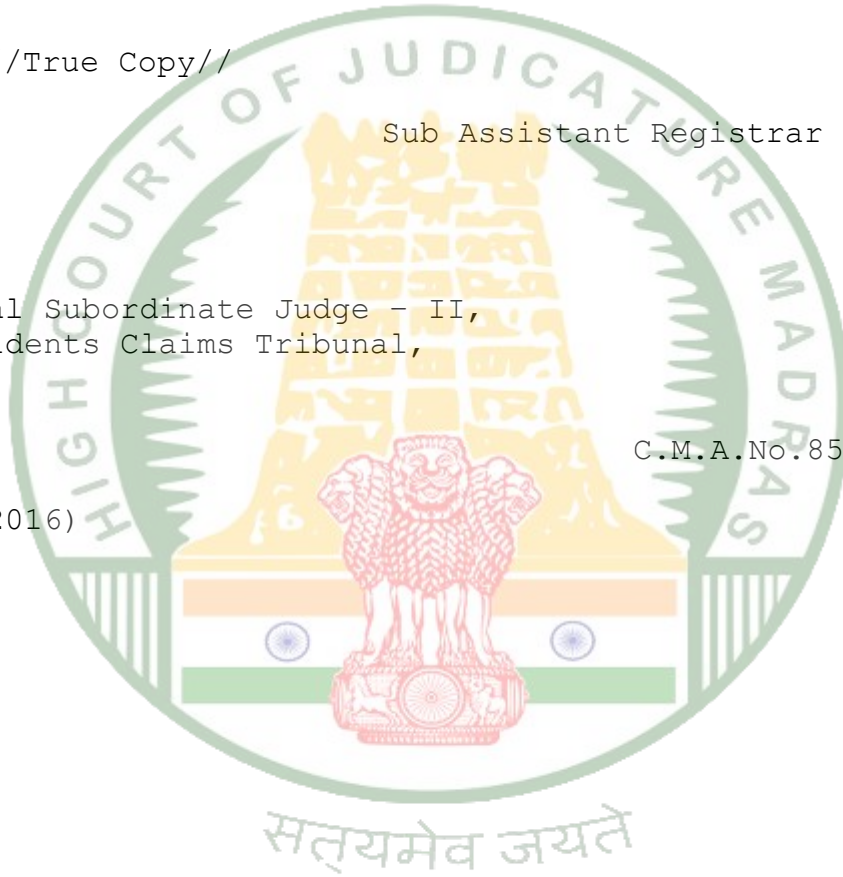
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To :

The Special Subordinate Judge - II,
Motor Accidents Claims Tribunal,
Salem.

C.M.A.No.850 of 2016

PA(CO)
CA(09/09/2016)



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