

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.3.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2823 of 2014
and
M.P.Nos.1 of 2014

M/s.Royal Sundaram Alliance
Insurance Co. Ltd.,
Rep. by its Manager,
Sundaram Towers,
No.45 & 46, Whites Road,
Chennai-600 014.
Respondent

.... Appellant/2nd

vs.

1. C.Ellappan (a person unconscious)
Represented by wife & NF Kamala ..1st
Respondent/Petitioner

2. M.Shailesh Shetty .. 2nd Respondent/
1st respondent

Civil Miscellaneous Appeal is filed under Section 173 of
Motor Vehicles Act, 1988 against the judgment and decree dated
15.09.2012, passed in M.C.O.P.No.810 of 2008 on the file of the
Motor Accidents Claims Tribunal, Principal District Court,
Krishnagiri.

For Appellant : Mr.N.Vijayaraghavan
For Respondents: R1- served
R2- batta due

JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR,J.)

The Insurance Company is on appeal challenging the award
dated 15.09.2012 passed in M.C.O.P.No.810 of 2008 on the file of
the Motor Accidents Claims Tribunal, Principal District Court,
Krishnagiri.

2. It is a case of injury. On 28.4.2008, when the injured was going on his motorcycle bearing Registration No.TVS XL Super Heavy Duty moped, the Opel Corsa car belonging to the first respondent and insured with second respondent bearing Registration No.KA-03-ME-3479 came in the same direction from Krishnagiri towards Hosur in a rash and negligent manner, dashed against the moped and thereby, caused grievous injuries to the claimant. FIR was registered against the driver of the car. The injured claimant filed a claim for compensation for a sum of Rs.15,00,000/-.

3. In support of the claim, the claimant's wife was examined as P.W.1, Dr.D.V.Gandhi was examined as P.W.2 and Murali Krishnan was examined as P.W.3 and Exs.A.1 to Ex.A.10 were marked, the details of which are as follows:-

Ex.No.	Details
A1	FIR
A2	Wound Certificate
A3	M.V.I report
A4	Insurance policy
A5	Pay slip
A6	Discharge summary
A7	Disability Certificate
A8	C.T. Scan
A9	I.D. card
A10	Attendance slips

On behalf of the respondents, no witnesses were examined and no documents were marked before the Tribunal.

4. The Tribunal based on the oral evidence of the witnesses and the F.I.R. came to conclusion that the driver of the car was rash and negligent in driving the vehicle and he was responsible for the accident and consequently liability was fixed on the insurance company and the 2nd respondent herein jointly and severally, as the vehicle was insured with the appellant insurance company, to compensate the claimant. On this issue, learned counsel for the appellant has not placed any material to come to a different conclusion from that of the conclusion arrived by the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 6% per annum:-

Sl.No	Head	Amount granted by the Tribunal
1	Loss of earnings	Rs. 9,72,000/-
2	Pain and suffering	Rs. 50,000/-
3	Transport	Rs. 10,000/-
4	Nutrition	Rs. 10,000/-
5	Attender Charges	Rs. 1,00,000/-
6	Future Treatment	Rs. 1,00,000/-
	Total compensation	Rs.12,42,000/-

6. Insofar as the compensation is concerned, based on the categorical evidence of P.W.3, Murali Krishnan, the Tribunal fixed the salary of the claimant as Rs.6000/-, which is very reasonable and is justified.

7. Considering the age of the deceased, at the time of accident, namely, 45 years, the Tribunal adopted 15 multiplier in consonance of the Apex Court's decision in Sarla Verma - vs. - Delhi Transport Corporation, 2009(2) TNMAC 1 (SC).

8. Considering the fact that the injured has suffered 90% disability, which is evident from the disability certificate given by P.W.2 Doctor, we are of the view that 90% disability taken by the Tribunal is justified. Therefore, this Court finds no good reason to reduce the multiplier and the quantum of compensation awarded by the Tribunal to the tune of Rs.9,72,000/- towards loss of earnings.

9. Further, the compensation awarded by the Tribunal under the heads, pain and suffering, transport, nutrition, attender charges and future treatment are very reasonable and justified.

10. There is no serious objection in respect of the interest granted at 6% per annum.

11. In the above circumstances, finding no merit, the Civil Miscellaneous Appeal is dismissed.

12. The appellant/Insurance Company is directed to deposit the entire award amount, with interest and costs, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent is permitted to withdraw the same on filing necessary application before the Tribunal.

There will be no order as to costs. Connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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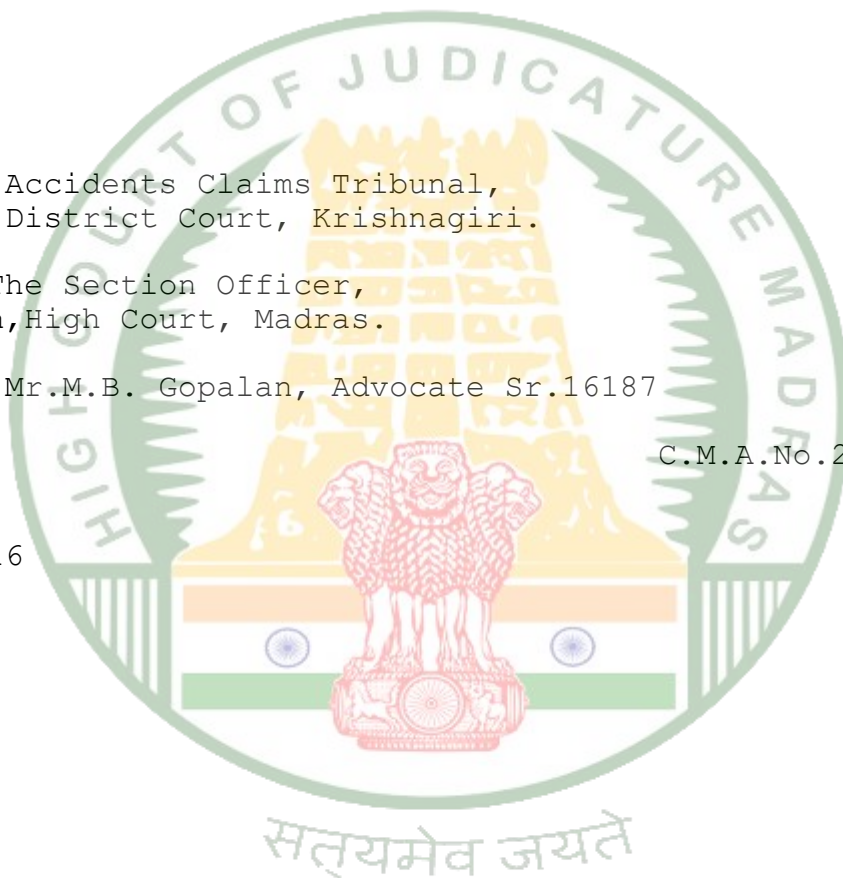
The Motor Accidents Claims Tribunal,
Principal District Court, Krishnagiri.

Copy to: The Section Officer,
VR Section, High Court, Madras.

+ 1 cc to Mr.M.B. Gopalan, Advocate Sr.16187

C.M.A.No.2823 of 2014

AD(CO)
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