



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.1678 of 2013

and

M.P(MD).No.3 of 2013

The General Manager,
The Oriental Insurance Co. Ltd.,
through 79, N.H.Road, Chennai.
the Branch Office,
Divisional Manager, Oriental Insurance Co., Ltd.,
Divisional Office, Prominate Road,
Contonment, Thiruchirappalli. ..
Appellant/Respondent No.2

-Vs-

1.Shanmugavel .. Respondent No.1/Petitioner
2.Arumugam .. Respondent No.2/Respondent No.1
(R2 has given up)

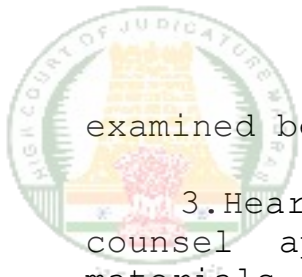
Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.450 of 2006, dated 27.09.2012, on the file of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Thiruchirappalli.

For Appellant : Mr.C.Jawahar Ravindran
For R1 : Mr.N.Sudhagar Nagaraj

JUDGMENT

It is a case of an injury caused on account of an accident took place on 04.07.2005 around 9.30 p.m. near Trichy-Thanjavur main road. The injured victim sustained grievous injuries and he filed an application seeking compensation before the Tribunal, Trichy and the Tribunal by considering the facts and circumstances, awarded a sum of Rs.84,000/- as total compensation.

2. Challenging the same, the appellant preferred the present appeal on the ground that there are in-consistencies both in the medical report as well as in the deposition of the doctor, who was



examined before the Tribunal.

3. Heard the learned counsel for the appellant and the learned counsel appearing for the first respondent and perused the materials available on record.

WEB COPY

4. The learned counsel for the 1st respondent/claimant opposed the grounds of appeal by stating that though there are some discrepancies of the doctor's evidence, there was possibilities of the doctor, who gave evidence would not have treated the patient and hence this appeal deserves dismissal.

5. In the facts and circumstances, the evidence of the doctor need not be considered by this Court. The Tribunal has awarded a sum of Rs.84,000/- as total compensation. Further, the injured sustained serious grievous injuries more specifically in his right hand and also in the right side of the rib. He took treatment as inpatient and not able to perform his work. To prove his disability, Ex.P.10, issued by PW4, was marked as one of the documents. Even after the medical treatment the respondent/claimant is suffering from breathing trouble and the partial permanent disability was assessed as 32%. Such being the nature of the injuries, the total compensation of a sum of Rs.84,000/- granted by the Tribunal is a just compensation, which required no reconsideration or reduction. Consequently, this Court is not inclined to appreciate the ground of appeal, filed by the appellant and accordingly the award passed in M.C.O.P.450 of 2006, dated 27.09.2012, by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruchirappalli, is confirmed.

6. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

6. The appellant is directed to deposit the entire award amount with accrued interest and costs, to the credit of M.C.O.P.No.450 of 2006, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruchirappalli, within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the 1st respondent/claimant is permitted to withdraw the entire award amount with accrued interest and costs, through RTGS by filing necessary applications before the Tribunal concerned.

Sd/-

Assistant Registrar (CS-I)



To

1.The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal,
Tiruchirappalli.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to MR.N.SUDHAGAR NAGARAJA, Advocate SR.73088

+1 cc to MR.C.JAWAHAR RAVINDRAN, Advocate SR.No.73266

C.M.A (MD) No.1678 of 2013
25.11.2016

SMA/SV-MMS/30.01.2017:3P/5C