

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED : 31.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.380 of 2017

and

CMP.No.2671 of 2017

The Oriental Insurance Company Ltd.,

Cuddalore - 1

....Appellant/4th Respondent

Versus

1. Mangai

2. M.C.Thangavelan

3. New India Insurance Company

Pondicherry

4. V.Perumal

...2 to 4 Respondents/

Respondents 1 to 3

Appeal filed under Section 173 of the Motor Vehicles Act against the Award and decree dated 30.09.2002 passed in M.C.O.P.No.115 of 2002 by the Motor Accidents Claims Tribunal (Fast Track Court-II), Cuddalore.

For Appellant : Mr. R. Subbiah

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No.115 of 2002, the appellant/Insurance Company has come forward with this Civil Miscellaneous Appeal.

2. The claimant, Mangai, aged 40 years, an idly vendor, earning a sum of Rs. 3,000/- per month, met with an accident that occurred on 13.09.1997 due to which she sustained grievous injuries and fracture in the shoulder. Hence, she filed a claim petition in M.C.O.P.No.416 of 1998, seeking compensation in a sum of Rs.3,00,000/-.

3. It is the case of the claimant that while she was travelling in the vehicle belonging to the 2nd respondent herein, which is insured with the 3rd respondent herein, the vehicle belonging to the 4th respondent herein, insured with the appellant herein, driven in a rash and negligent manner, hit

against the vehicle in which the claimant was travelling due to which the claimant suffered grievous injuries.

4. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs. 1,66,000/- (Rupees One lakh sixty six thousand only) as compensation, the break up details of the same is as follows:

Permanent disability	:	Rs.50,000/-
Loss of income	:	Rs.96,000/-
Non-pecuniary damage	:	Rs.20,000/-

Rs.1,66,000/-

5. The learned counsel appearing for the appellant/insurance company submits that the compensation awarded by the Claims Tribunal is very high and the same needs to be reduced.

6. Heard the learned counsel appearing for the appellant and perused the judgment passed by the Tribunal as also the oral and documentary evidence on which reliance has been placed by the Tribunal to pass the award.

7. At the outset, it is to be stated that the appellant is questioning only the quantum of compensation awarded and no other plea has been raised and the question of contributory negligence has also not been raised.

8. As regards the quantum of compensation is concerned, though the claimant has claimed that she is earning a sum of Rs.3,000/- per month, however, in the absence of any proof to substantiate the same, the Tribunal has, very conservatively, fixed the monthly income of the claimant at Rs.500/- and adopting a multiplier of 16, has quantified the compensation at Rs.96,000/- (500x12x16) under the head Loss of Income. Fixation of Rs.500/- per month towards income and quantification based on the said fixation, cannot, by any stretch of imagination, said to be excessive or unreasonable. In fact, the monthly income fixed at Rs.500/- is on the very lower side. However, this Court is not inclined to enhance the compensation, considering that the accident happened in the year 1997. The Tribunal, on consideration of oral and documentary evidence and also taking into account the nature of injury sustained by the claimant, the period of treatment undergone and the nature of disablement, has awarded compensation under the heads mentioned above. The amounts awarded under the various heads, as shown above, cannot be termed to be excessive, exorbitant, unreasonable or unjustified. This Court is of the considered view that no interference is called for with the award passed by the Tribunal.

9. In the result, this Civil Miscellaneous Appeal is

dismissed, confirming the Judgment and Decree of the Claims Tribunal dated 30.09.2002 in M.C.O.P.No.115 of 2002. No costs. Consequently, connected Miscellaneous Petition is closed.

10. The appellant/Insurance Company is directed to deposit the compensation amount, along with interest, less the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS III)

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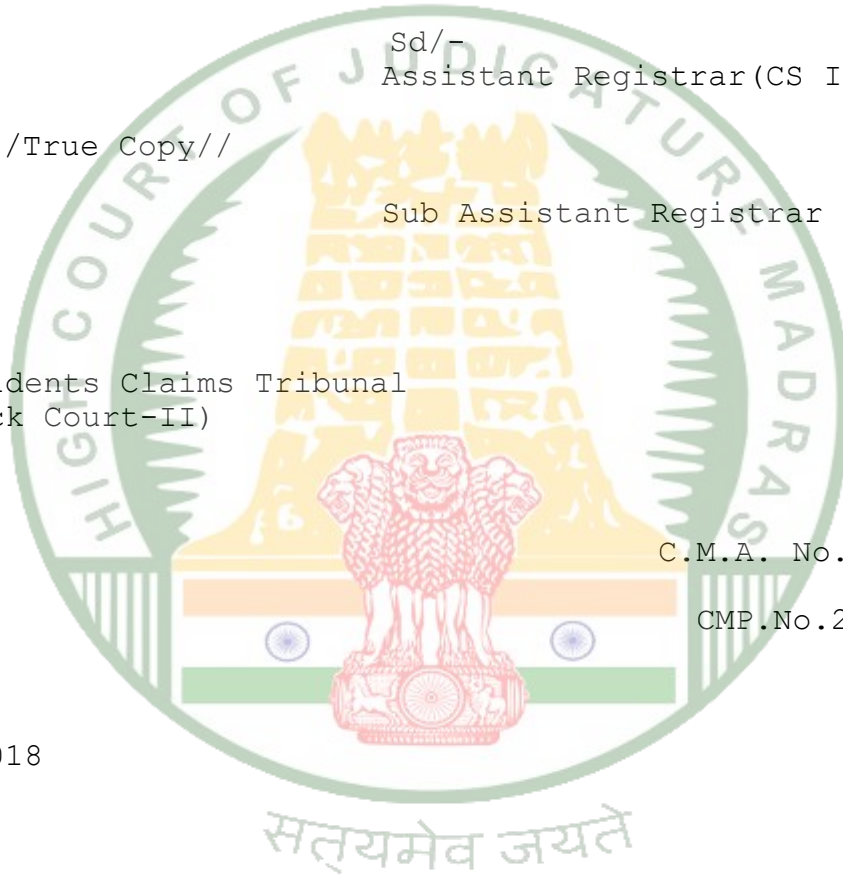
Sub Assistant Registrar

arr/GLN
To

Motor Accidents Claims Tribunal
(Fast Track Court-II)
Cuddalore.

C.M.A. No.380 of 2017
and
CMP.No.2671 of 2017

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