

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.405 of 2017
and
C.M.P.No.2848 of 2017

National Insurance Company Ltd.,
Kumbakkonam Branch,
62, T.S.R. Big Street,
Kumbakkonam. ... Appellant / 2nd respondent

versus

1. Ravichandran ... 1st respondent / Petitioner
2. Govindaraj ... 2nd respondent/1st respondent
(R2 remained ex parte before
the Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.03.2005 made in M.A.C.T.O.P.No.642 of 2003 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court, Ariyalur.

For Appellant : Mrs.N.B.Surekha

JUDGMENT

The claimant Ravichandran, aged about 32 years, a Weaver by profession, earning a sum of Rs.200/- per day, met with an accident on 12.03.2002. Hence, he filed a claim petition in M.A.C.T.O.P.No.642 of 2003, before the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court, Ariyalur, claiming compensation of Rs.5,00,000/-.

2. The Tribunal, after considering the oral and documentary evidence, has awarded a sum of Rs.2,45,000/- as compensation along with interest at the rate of 9% p.a., from the date of petition till the date of deposit. The break-up details of the compensation read as under:

Disablement	-	Rs.2,30,400/-
Pain and sufferings	-	Rs. 5,000/-
Nutrition	-	Rs. 5,000/-
Medical expenses	-	Rs. 5,000/-

Total - Rs.2,45,400/-

Rounded off - Rs.2,45,000/-

Challenging the quantum of compensation as excessive, the Insurance Company has preferred the present Civil Miscellaneous Appeal.

3. The learned counsel appearing for the Insurance Company would submit that the multiplier method ought not to have been adopted by the Tribunal; as there was no proof to show the avocation and income of the deceased, the Tribunal ought not to have fixed the monthly income at Rs.3,000/-; the claimant has admitted that he had recovered from the injuries and he is doing the work easily and normally, hence, the compensation awarded by the Tribunal towards disablement is unjustifiable.

4. A perusal of the award would go to show that the injured suffered fracture of bone in the right ankle with loss of muscles and crush injury over the left and right foot. As the wheel run over the right leg below the knee, plastic surgery has been done by taking flesh from the thigh. Therefore, there is disfigurement of the leg. There was shortening length in the right leg and the size of the right leg has also been reduced. As he was a weaver, because of injury over the leg, he was not able to continue his avocation as before and he suffered not only loss of income, but also loss of earning capacity. Furthermore, his future marriage prospects was also affected because of injury.

4.1. The Doctor, who examined the injured, has supported the nature of injury already given and after explaining the difficulties of the injured, the doctor has certified the disablement at 64%. Hence, the loss of earning capacity has been calculated by the Tribunal at Rs.2,30,400/-.

4.2. The Tribunal has also awarded a sum of Rs.5,000/- towards pain and sufferings, Rs.5,000/- towards extra-nourishment, Rs.5,000/- towards medical expenses.

5. It is relevant to point out that the loss of marital prospects and loss of enjoyment of amenities have not been considered at all. Therefore, the amount of compensation awarded to the claimant cannot be said to be excessive and the appeal has no merits.

6. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the Judgment and decree dated 30.03.2005 passed in M.A.C.T.O.P.No.642 of 2003 by the Motor Accidents

Claims Tribunal, Additional District Judge, Fast Track Court, Ariyalur.

7. The Insurance Company is directed to deposit the entire amount of compensation, less the amount already deposited, if any, along with interest at the rate of 9% p.a. from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

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Sub Asst. Registrar

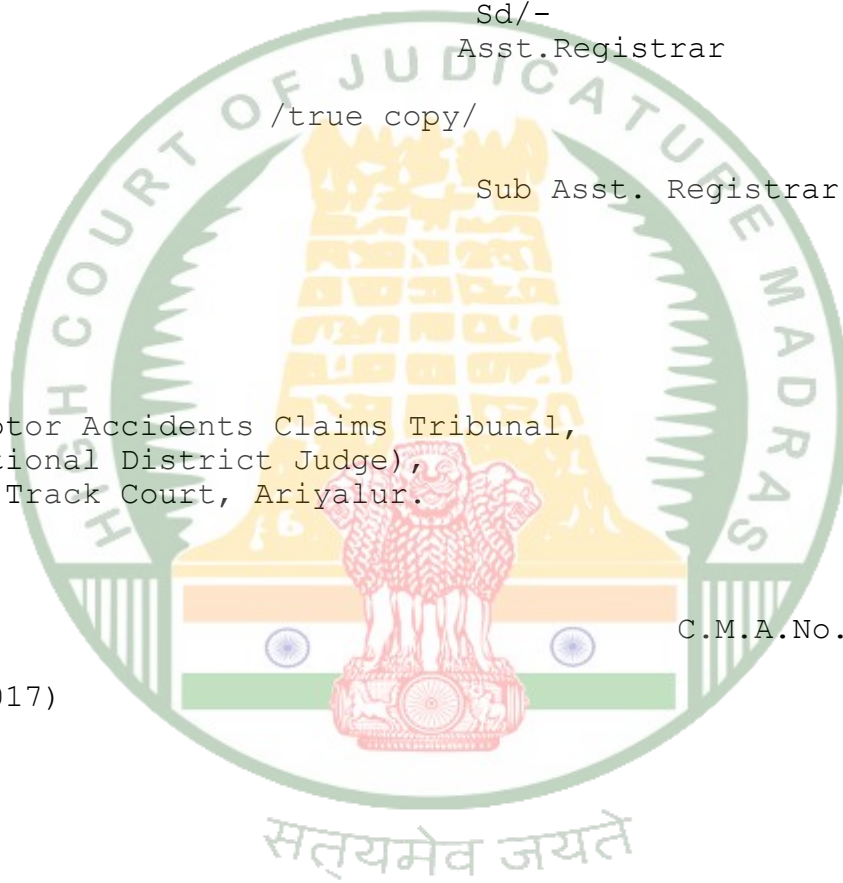
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To

1. The Motor Accidents Claims Tribunal,
(Additional District Judge),
Fast Track Court, Ariyalur.

RJ(CO)
VR(22/5/2017)

C.M.A.No.405 of 2017



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