

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.02.2017

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.775 of 2017

The National Insurance Co. Ltd.,
165, Nethaji Road,
Manjakuppam,
Cuddalore-1.

..Appellant/2nd Respondent
Vs.

1.P.Radha
2.V.Azhagesan
(R2 set exparte in the lower court) ..Respondents/Petitioner/
1st Respondent

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 24.02.2006 made in M.C.O.P.No.919 of 2002 on the file of the Motor Accident Claims Tribunal, [Prl. Sub Judge], Cuddalore.

For Appellant : Mr.S.Vadivel

J U D G M E N T

The claimant Radha, aged 45 years, a cook under labour contract, earning a sum of Rs.5,000/- per month, met with an accident on 25.02.2002. Therefore, she filed a claim petition in M.C.O.P.No.919 of 2002 claiming compensation for a sum of Rs.5,00,000/-.

2.The Tribunal, based on the oral and documentary evidence, awarded a sum of Rs.1,24,000/- as compensation. Assailing that the compensation awarded is excessive and unreasonable, the present appeal has been filed by the insurer of the vehicle.

3.The claimant is the 1st respondent and the owner of the vehicle is the 2nd respondent in this appeal. It is borne out by record that in the accident, the claimant suffered fracture in both hands, legs and also suffered head injury. The injured took treatment for two days i.e., on 25.02.2002 and 26.02.2002 as in-patient. Since the complaint was taking treatment as in-patient, the complaint has been given on 27.02.2002. P.W.2, the Doctor who examined the injured and issued Disability Certificate has certified that there is

malunion of bones and restriction in movement and has certified the disability at 30%.

4.The Tribunal, conservatively, fixing the monthly income of the injured at Rs.6,000/- and adopting multiplier of 15, quantified the loss of income at Rs.1,08,000/-; adding to the said sum, a sum of Rs.10,000/- was awarded towards pain and sufferings; a sum of Rs.5,000/- towards extra nourishment and Rs.1,000/- towards transport expenses were awarded. In all, the compensation has been quantified at Rs.1,24,000/-.

5.Though it is contended by the learned counsel for the appellant/insurance company that the award is excessive and exorbitant, however, the said contention cannot be sustained. An overall analysis of the award passed by the Tribunal shows that it is a conservative award. Further, this Court finds that though the claimant has suffered permanent disablement and has taken treatment in the hospital, however, the Tribunal has not granted any amount towards medical expenses and loss of enjoyment of amenities. Therefore, by no means could the award be said to be excessive or exorbitant. No other ground other than quantum of compensation has been raised by the Tribunal, which this Court finds unsustainable. Therefore, this appeal is liable to be dismissed and accordingly, there being no merits, the same is dismissed.

6.The Appellant/Insurance company is directed to deposit the entire award amount along with interest and costs as awarded by the Tribunal, less the amount, if any, already deposited, to the credit of the claim petition before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gya/GLN

To

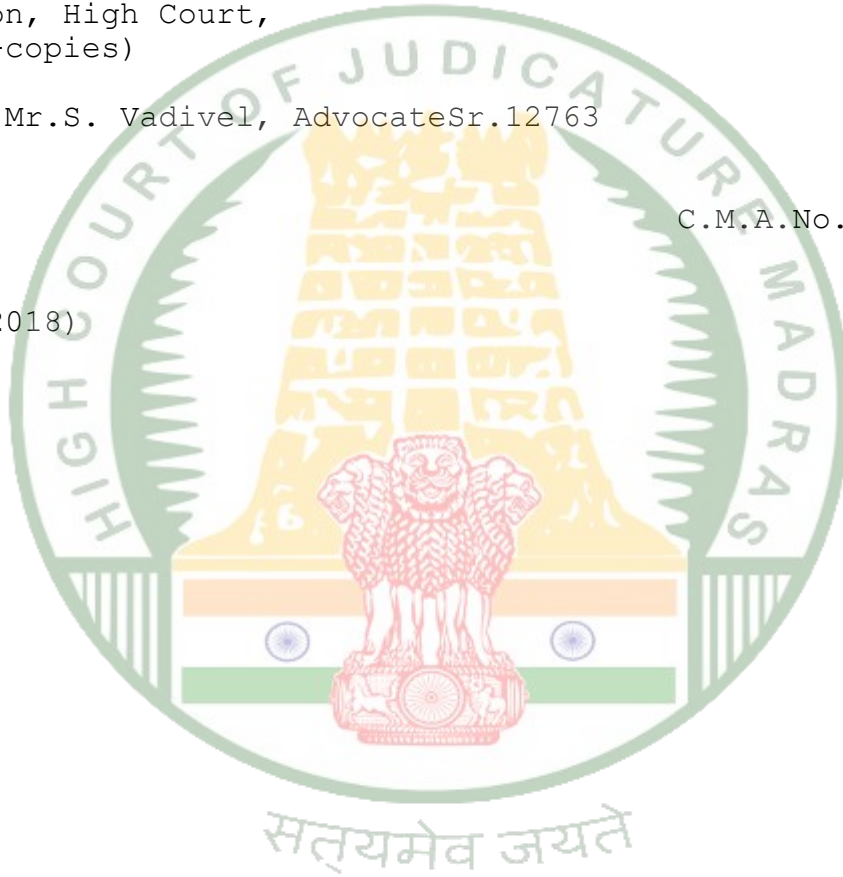
1.The Principal Subordinate Judge,
the Motor Accident Claims Tribunal,
Cuddalore.

2.The Section Officer,
V.R.Section, High Court,
Madras.(2-copies)

+ 1 cc to Mr.S. Vadivel, AdvocateSr.12763

C.M.A.No.775 of 2017

KK(CO)
EU(21/02/2018)



WEB COPY