

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2017

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THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

CMA.No.1082 of 2004

and

CMP.No.1743 of 2005

M/s.United India Insurance Co., Ltd.,
Divisional Office, Ranipet. .. Appellant/
2nd respondent

Vs.

1.Gayathri Minor (11 years) .. 1st Respondent/
Rep.by her Father Sekar petitioner

2. Pitchandi .. 2nd Respondent/
1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in M.A.C.T.O.P.No.47 of 2001, dated 14.02.2003 on the file of the Motor Accidents Claims Tribunal, Sub Judge, Cheyyar.

For Appellant : Mr.N.Vijayaraghavan

For R1 : Mr. K.G.Senthil Kumar

For R2 : Exparte in Tribunal

JUDGMENT

The Insurance Company/2nd respondent in M.C.O.P.No.47 of 2001 on the file of the Motor Accident Claims Tribunal, Sub Judge, Cheyyar, is the appellant. The claimant represented by her father and has filed the above MCOP for compensation for the injuries sustained by her in a Motor Accident that occurred on 20.05.1998. The Tribunal awarded Rs.6,62,100/- as against the claim of Rs.15 lakhs. The second respondent is the owner of the offending vehicle. The Tribunal held that the accident occurred only due to the rash and negligent driving of the driver of Mahendra bike. It is not in dispute that the vehicle involved in the accident has been insured with the appellant. This appeal has been preferred by the Insurance Company, challenging the award passed by the Tribunal.

2. The Tribunal awarded the compensation under the following heads:

Sl.No.	Head under which the amount was awarded by the Tribunal	Amount awarded
1	Loss of income	15,000
2	Medical expenses	1,25,600
3	Transportation charges	21,500
4	Permanent disability	3,00,000
5	Pain and suffering	2,00,000
	Total	6,62,100

3. The learned counsel for the Insurance Company contended that the amount awarded by the Tribunal under the head "pain and suffering" is excessive and the award of Rs.3,00,000/- towards permanent disability is abnormal. P.W.2 Doctor (Orthopaedician) was examined in support of the disability sustained by the first appellant-claimant and Ex.P.4 disability certificate was marked to prove the same.

4. It is seen from the records and the evidence of the Doctor that the claimant suffered 50% disability and it is also seen from the records that the claimant suffered several fractures in the right jaw, right shoulder, right wrist, and right leg. There is also evidence to show that the claimant suffered disfigurement and she took continuous treatment at CMC Vellore and she requires further treatment also. The claimant was 11 years old at the time of accident. However, trial Court omitted to award any compensation under the head loss of amenities/marriage prospects. The Tribunal has also omitted to take into account the injuries suffered by her and also the future prospects.

5. If the Tribunal had taken into account the loss of amenities, it should have awarded more amount. It is also common knowledge, the value of rupees was dwindling on account of high rate of inflation. The Tribunal has awarded a reasonable compensation of Rs.6,62,100/-. I am satisfied that the award is justified on facts and it does not require any interference.

6. For the reasons stated above, the Civil Miscellaneous Appeal is dismissed. The appellant-Insurance Company is directed to deposit the entire award amount of Rs.6,62,100/- with interest at the rate of 7.5% per annum and costs, less the statutory deposit, to the credit of M.A.C.T.O.P.No.47 of 2001 on the file of the Motor Accidents Claims Tribunal, Sub Judge, Cheyyar, within six weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to

withdraw the same with appropriate interest, by making necessary application before the Tribunal. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dpq

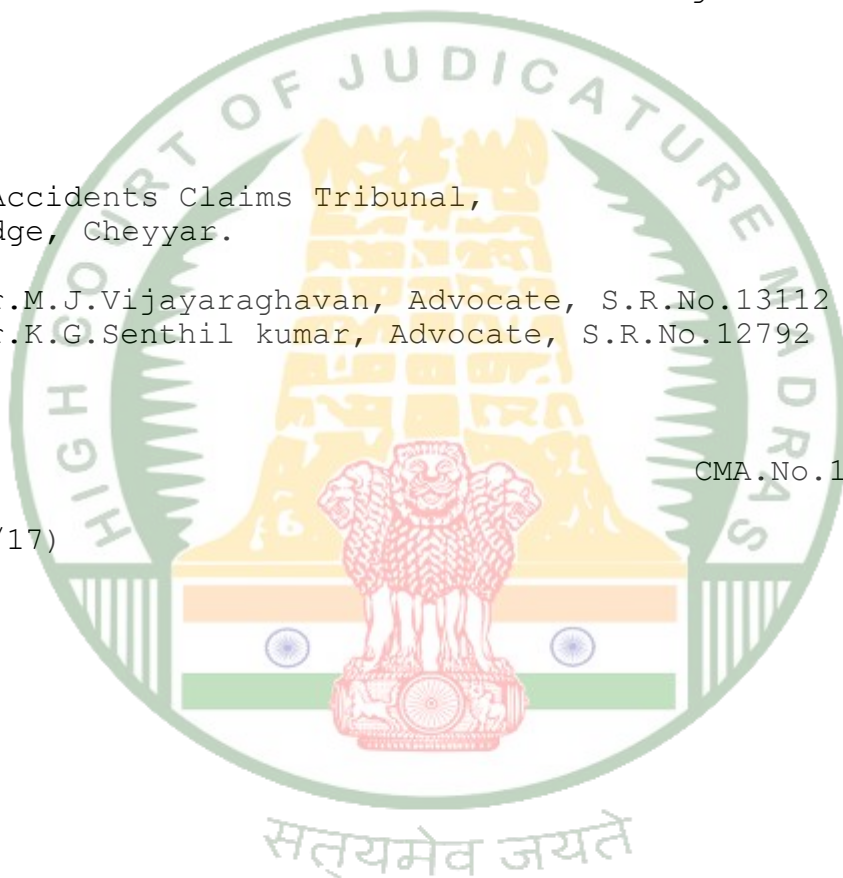
To

1. Motor Accidents Claims Tribunal,
Sub Judge, Cheyyar.

+1cc to Mr.M.J.Vijayaraghavan, Advocate, S.R.No.13112
+1cc to Mr.K.G.Senthil kumar, Advocate, S.R.No.12792

svi(co)
rmp(16/05/17)

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