

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2017

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THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

C.M.A. Nos.315 and 316 of 2006

National Insurance Company Limited,
Motor Third Party Claims Office,
No.751, Anna Salai, Chennai-2. . . Appellants/2nd Respondent in
both the MCOP

Versus

1 M.Mani Respondent in C.M.A.315/06
G. Selvaraj Respondent in C.M.A.316/06
2 P.Sekar Respondent in both C.M.A.Nos.
315 and 316 of 2006/1st
Respondent in both MCOP

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 19.01.2005 made in M.C.O.P.Nos.221 and 222 of 2003 on the file of the Motor Accidents Claims Tribunal, Ponneri.

For Appellant in both C.M.As :Mr.D.Bhaskaran
Not ready notice regarding respondents in both C.M.As

C O M M O N J U D G M E N T

The appellant Insurance Company is the second respondent in M.C.O.P.Nos.221 and 222 of 2003. In an accident that occurred on 10.07.2003, the claimants (Mani - M.C.O.P.No.221 of 2003 and Selvaraj - M.C.O.P.No.222 of 2003) sustained injuries. For the injuries sustained by them, they have filed the above petitions.

2. According to the claimants, at the time of accident, they were travelling in a Mahindra Van bearing Regn.No.TN-49-A-5877 to Ponneri, the driver of a tanker lorry bearing Regn.No.HR.38-C-0791 drove the lorry in rash and negligent manner at a high speed and while negotiating a speed braker, the lorry overturned and fell on the van, in which, the claimants and others travelled. As a result of the accident, the petitioners have sustained injuries. The first respondent P.Sekar is the owner of

the tanker lorry and the appellant herein is the insurer of the tanker lorry.

3. The above petitions were disposed of by a common order by the tribunal. The tribunal held that the accident occurred only due to the rash and negligent driving of the driver of the tanker lorry. The claimants adduced evidence in support of their case. They are all injured eye witnesses. They have also produced documents viz., F.I.R and Motor Vehicle Inspector's Report in support of their case. There is no contra evidence on the side of the respondents. Therefore, the tribunal is correct in coming to the conclusion that the accident occurred only due to the rash and negligent driving of the driver of the tanker lorry.

4. Coming to the quantum fixed by the tribunal, the tribunal has taken note of materials produced by the claimants and awarded a sum of Rs.64,500/- to claimant Mani (M.C.O.P.No.221/2003) and Rs.67,200/- to the claimant Selvaraj (M.C.O.P.No.222/2003).

5. The claimant Mani was 44 years at the time of accident and he is an agricultural coolie. He has produced Accident Register copy (Ex.P7). He was admitted to hospital on 10.07.2003 and he was discharged from the hospital on 16.07.2003. Ex.P8 is the discharge summary. Doctor (P.W.4) would state that Mani suffered 20% disability. However, the tribunal fixed the disability at 15%. Having regard to the nature of the injuries sustained by the claimant and bearing in mind that the petitioner is an agricultural coolie, the tribunal awarded Rs.40,500/- under the head loss of earning capacity, Rs.10,000/- towards pain and suffering, Rs.10,000/- towards extra nourishment, Rs.3,000/- towards transport expenses and Rs.1,000/- towards damages to clothes.

6. It is pertinent to note that the tribunal has not awarded any amount under the head 'attendant charges'. Having regard to the nature of injuries sustained by the claimants, the period of hospitalization and the percentage of disability, I hold that the tribunal awarded only a reasonable compensation. Having regard to the materials available on record, I am satisfied that the award is justified on facts. It does not require any modification.

7. In the case of Selvaraj, the tribunal awarded a total compensation of Rs.67,200/- under the following heads:

Sl.No.	Heads	Amount awarded
1.	Loss of earning capacity	Rs.43,200
2.	Pain and suffering	Rs.10,000
3.	Extra Nourishment	Rs.10,000
4.	Transport Charges	Rs. 3,000
5.	Damage to clothes	Rs. 1,000
	Total	Rs.67,200/-

8. The claimant Selvaraj was aged 56 at the time of accident. He is also an agricultural coolie. He had produced medical records i.e Accident Register (Ex.P2), wound certificate (Ex.P3), Discharge summary (Ex.P5), X-Ray report (Ex.P6). He sustained grievous injuries. He took treatment as inpatient from 11.07.2003 to 16.07.2003. According to the doctor (P.W.4), claimant Selvaraj suffered 45% disability. Having regard to the nature of the injuries sustained by the claimant and bearing in mind that the petitioner is an agricultural coolie, the tribunal awarded Rs.43,200/- under the head loss of earning capacity. As the petitioner sustained grievous injuries and took treatment from 11.07.2003 to 16.07.2003 as inpatient, it cannot be said that the compensation is excessive. In this case also, the tribunal omitted to award any compensation under the head 'Attendant Charges'. An element of guess work is unavoidable. Unless the award is too high, the appellate Court would not ordinarily interfere. In the case at hand, the tribunal awarded only a modest compensation. On facts, I am satisfied that the awards in question are justified.

9. In the result, both the Civil Miscellaneous Appeals are dismissed. The award of the Motor Accidents Claims Tribunal passed in M.C.O.P.Nos.221 and 222 of 2003 are confirmed. No costs. Connected Miscellaneous Petitions are also closed.

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Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

nvi/vs
To

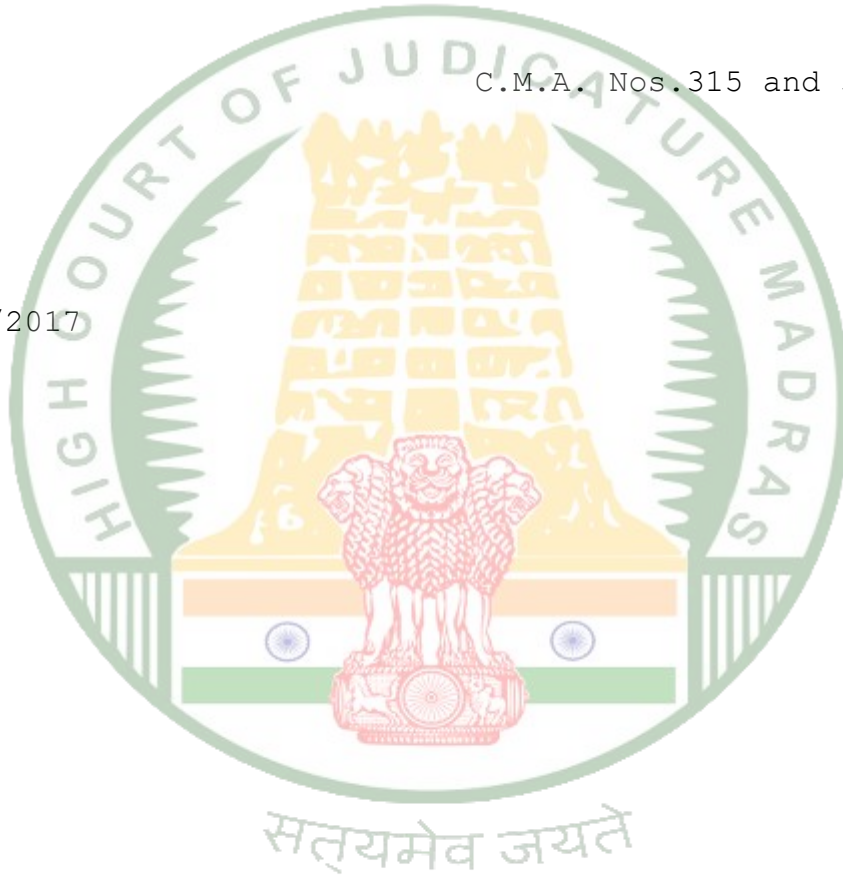
1. The Sub Judge,
Motor Accidents Claims Tribunal, Ponneri.

2.The Section Officer, V.R.Section,
High Court, Madras.

+lcc to Mr.D.Bhaskaran, Advocate Sr.10416

C.M.A. Nos.315 and 316 of 2006

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