

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.317 of 2001

1. B.Mahadevan

2.The United India Insurance Company Limited,
Divisional Office,
Vellore - 632 004. ...Appellants/Respondents 2 & 3

Vs.

1.Y.Poompozhil ... Respondent 1 /Petitioner
2.B.Parthasarathy ... Respondent 2/1st Respondent

3.The Oriental Insurance Company Limited,
Divisional Office rep. by its Divisional Manager,
Katpadi Road, Vellore - 632 004. ... Respondent 3 /4th
Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 07.8.2000 made in MACT.OP.No.534 of 1991 on the file of the Motor Accident Claims Tribunal (Sub Court), Vellore.

For Appellant : Mr.P.Sukumar
For Respondents : Mr.P.Manikannan [for R1]
Mr.P.Kandasamy [for R3]

JUDGMENT

In a road accident that took place on 14.3.1991 involving a lorry and a car, the passenger of a car suffered injury and two other inmates died. There were separate claims and those that arise out the death of others have already been disposed of by this Court, one before the Lok Adalat and the other was contested before this Court. This appeal is preferred by the owner and the insurer of the offending vehicle against the award involving passenger's injury.

2. The injured was a medical student and had suffered injury to her head and other parts of the body and was hospitalised for 50 days for her treatment and was awarded Rs.1,05,000/- as against the claim of Rs.3,00,000/-. The Tribunal has found that the driver of the lorry was negligent and accordingly it fastened

the liability on the insurance company on behalf of the owner and driver of the lorry.

3. The learned counsel for the appellants submitted that the appellants challenge both the factum of negligence as well as the quantum of compensation awarded. However, he fairly submitted that in another connected case arising out of the same accident that was disposed of on merit, this Court has confirmed the finding as to the negligence on the part of the driver of the lorry. That apart, even the argument on the question of negligence rests solely on the factum of acquittal of the driver of the lorry in the criminal case that arose out of the same accident. This obviously is a weak submission and cannot sustain the appellants' contentions. Turning to the quantum, the learned counsel submitted that it was excessively awarded and more particularly on the head of compensation towards medical expenses Rs.60,000/-, whereas the documents that support the claim is only for Rs.40,000/-.

4. What was awarded in 1991 has lost all its effective significance after twenty five years as on today. Even if it is accepted, I find the compensation awarded for pain and suffering is inadequately valued at Rs.10,000/- for someone who has been in the hospital for 50 days. Therefore, it all require an internal adjustment under the various heads of compensation, which under this circumstance is an unnecessary exercise.

5. In the end, I find little merit in the appeal and the same is dismissed without costs. The appellants (owner and the insurer of the lorry) are directed to deposit the compensation amount, less if any already deposited within a period of four weeks from the date of receipt of a copy of this order, whereupon the claimant would be entitled to withdraw the same forthwith.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
Sub Court, Vellore.

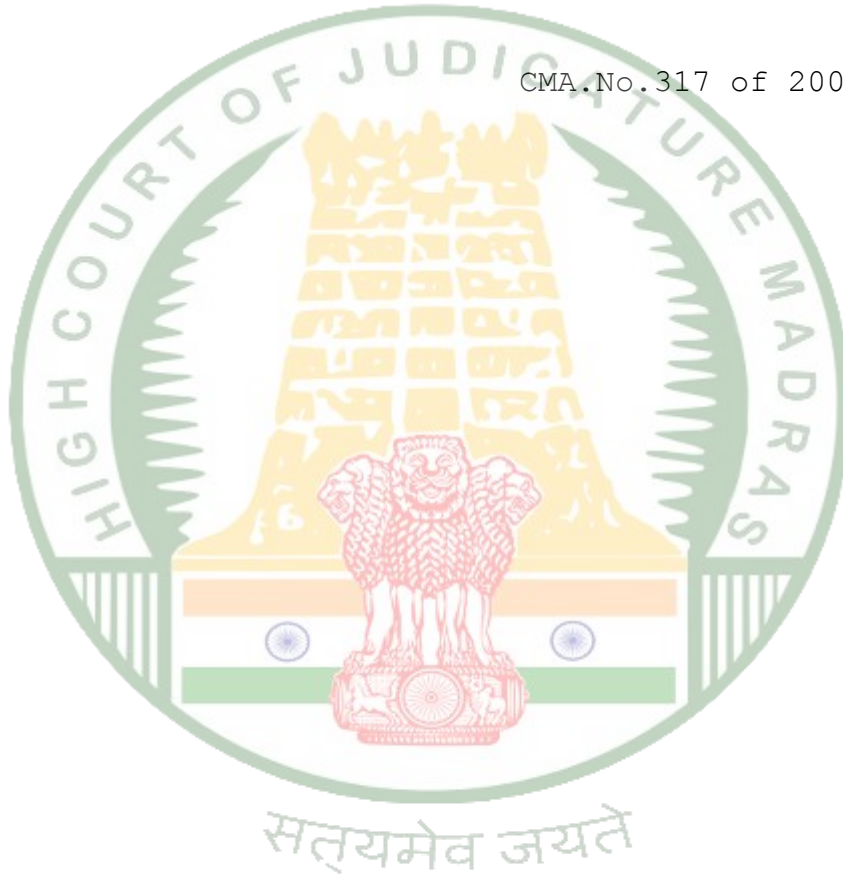
+1cc to Mr.P. Manikannan, Advocate, S.R.No.6425

+1cc to Mr.P. Sukumar, Advocate, S.R.No.6835

rv(CO)

md(24/03/2017)

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