

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2017

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A. No.455 of 2006

M/S.Oriental Insurance Co.Ltd.,
1858, South Main Road,
Thanjavur

Appellant/2nd Respondent

Versus

1. K.Krishnakumar ... 1st Respondent/Petitioner
2. K.R.Asokan
3. V.Thambu

4. National Insurance Co.Ltd.,
Dharmapuri Branch,
86-F, Bypass Road,
Dharmapuri.

... 2 to 4 Respondents/Respondents 1, 3 & 4

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decretal order dated 04.07.2005, made in M.C.O.P.No.724 of 2001 on the file of the Motor Accident Claims Tribunal, (Principal Sub Court) Salem.

For Appellant : Mr.S.Mohan

For Respondent 1 : Mr.P.Jagadeesan

For Respondent 4 : Ms.N.S.Surekha

WEB COPY
JUDGMENT

The civil miscellaneous appeal has been filed by the appellant/Oriental Insurance Company against the judgment and decree passed in MCOP.No.724 of 2001.

2. The brief facts of the case are as follows:-

On 12.04.2001, at about 3.00 am, the first respondent/claimant along with three persons was travelling in

Tata Indiga car bearing registration TN 29-D-3930 from Salem to Madurai near Namakkal and Vellore, lorry bearing registration No.TN 55-B-4779, came in the opposite direction driven by driver in a rash and negligent manner with great speed without control and hit against the Tata Indiga car and caused the accident.

3. The Tribunal after assessing the evidence and the documents placed before it, fixed the negligence on the driver of the lorry and insurance company and the same was made liable. Compensation is arrived by assessing the document and by considering the age of the person, income and the disability and a sum of Rs.2,49,636/- is awarded. Against which, the second respondent

has referred this appeal and among the grounds of appeal, liability and the amount awarded by the Tribunal, are disputed.

4. On a perusal of the documents placed before the tribunal, regarding the evidence given by the injured person that he sustained fracture injury in the right leg and also in the left shoulder and also other injury and apart from that he has taken treatment as in patient. In spite of effective treatment given, the injured person sustained disability of 40% for which doctor has given disability certificate Ex.P.11, which is also confirmed in the medical report.

5. Considering all the above facts, the tribunal fixed the disability at 25% and for the medical bills a sum of Rs.79,686/- was awarded and the income of the injured person also determined as Rs.3,000/- per month and the age of the claimant was taken into consideration and applying the multiplier method, the amount arrived by the tribunal as assessing the disability as 25%, the loss of income was arrived as Rs.1,53,000/- and the total sum of Rs.2,49,936/- was awarded and the breakup details are as under :

Loss of Income	:	Rs.1,53,000/-
Medical expenses	:	79,686/-
Pain and sufferings	:	10,000/-
Nutrition	:	5,000/-
Transport	:	2,000/-
Clothing expenses	:	250/-

Rs.2,49,936/-

6. On perusal of the injury sustained by the claimant and the disability certificate given by the doctor at 40% and considering the period of treatment undergone by the claimant,

it is quite reasonable and proper to fix a sum of Rs.3,000/- per disability at 40% and the amount is arrived at Rs.1,20,000/- is quite reasonable one. For considering the occupation of the claimant and for the loss of income during the period of treatment also a sum of Rs.20,000/- is quite reasonable to be awarded. The award given under the head medical expenses, pain and suffering and transport expenses and other expensed are quite reasonable and hence in the above said modification the award of the tribunal is altered in the following manner:-

Disability 40% X 3000	=	s.1,20,000/-
Medical Expenses	=	Rs.79,686/-
Pain and Suffering	=	Rs.10,000/-
Loss of Income	=	Rs.20,000/-
Extra Nourishment	=	Rs. 5,000/-
Transport	=	Rs. 2,000/-
Damage to Clothing	=	Rs. 250/-
Total		Rs.2,36,936/-

7. In the result,

i) the CMA is partly allowed.

ii) The award amount is reduced to Rs.2,36,936/- from Rs.2,49,936/-.

iii) The award amount will carry interest at the rate of 7.5% from the date of petition till the date of deposit.

iv) Since the appellant has deposited the entire amount, the claimant is permitted to withdraw the same with proportionate & accrued interest & cost.

v) The appellant is also entitled to withdraw the excess amount, if any in deposit lying before the Tribunal. No costs.

Sd/-

Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

AT

To

1. The Principal Sub Court,
Motor Accident Claims Tribunal,
Salem

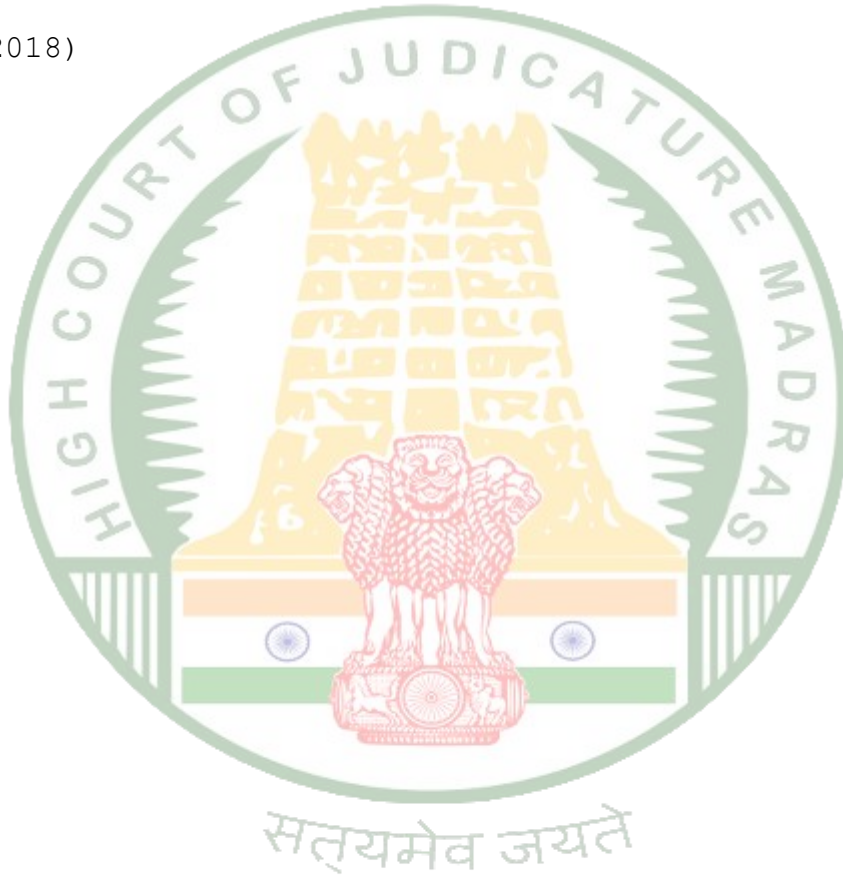
2. The Section Officer,
V.R. Section,
High Court,
Madras - 104.

+1cc to Mr.P.Jagadeesan, Advocate SR.No.90489

+1cc to Mr.N.B.Surekha, Advocate SR.No.89100

C.M.A. No.455 of 2006

SJ(CO)
GN(10/05/2018)



WEB COPY