

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2017

CORAM :

THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

C.M.A.No.773 of 2003

and

C.M.P.No.5558 of 2003

United India Insurance Co. Ltd.,
Branch Office,
No.12-A, Kovai Road,
Karur - 2.

... Appellant/2nd Respondent

Vs.

1.Venkatesh ... Ist Respondent/Claimant
2.K.V.Sellamal ... IIInd Respondent/1st Respondent
[R1 set exparte before Lower Court]

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 14.02.2002 made in MCOP.No.43 of 1999 on the file of the Motor Accident Claims Tribunal (First Additional District Judge), Krishnagiri.

For Appellant : Mr.C.Ramesh Babu

For Respondents : No Appearance for R2
R1 - Exparte

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Insurance Company against the award passed in MCOP.No.43 of 1999 on the file of the Motor Accidents Claims Tribunal (I Additional District Court), Krishnagiri. It primarily challenges the quantum of compensation awarded to a driver of a car who suffered injury due to rash and negligent driving of a lorry insured with it. For the injuries suffered, the claimant moved the Tribunal with a claim of Rs.3,00,000/- whereas the Tribunal has passed an award for Rs.2,97,260/- payable with interest at 9% per annum.

2. Before the Tribunal P.W.2, the doctor had examined the claimant and had assessed the permanent disability suffered by the claimant at 50%. The nature of injuries suffered by him are fracture of right femur, fracture of sixth and seventh ribs besides facial fracture. He was hospitalized for about 34 days

and was surgically treated for correcting his fracture, but there was shortening of leg by 1½ inch. He was a driver by avocation and was aged 32 years at that relevant time. The various heads under which the award has been passed is tabulated hereunder :

Heads	Amount Awarded (Rs.)
Permanent disability	2,00,000/-
Medical Expenses	52,260/-
Pain and suffering	35,000/-
Assistance	5,000/-
Transportation & nourishment	5,000/-
Total :	2,97,260/-

3. The learned counsel for the appellant took exception solely on the amount of compensation awarded on the head of permanent disability. He submitted that going by the 1997 standards, to award Rs.4,000/- for every percentage of disability is exorbitant and at any rate, the Tribunal has not made explicit as to how it had arrived at Rs.2,00,000/-. And, even Rs.4,000/- for every percentage of disability is something one has to infer from the percentage of disability determined by P.W.2 and quantum awarded under this head.

4. In this case, service of notice on the claimant is not completed. However, for the conclusion that I have arrived at on hearing the appellant, I dispense with notice to the claimant.

5. It is a case of a driver aged 32 years who had suffered shortening of his right leg by 1½ inch due to the road accident involved in the case. Very obviously it is not his fault that he suffered the injury. It is the injury that he has to endure throughout his life and it has got a direct impact in driving the vehicle. This obviously is a case of functional disability and in fitness of things, the Tribunal ought to have opted for multiplier method and that would have resulted in payment of much larger compensation than what it is now awarded. Whatever the appellant contends as an exorbitant compensation by 2003 standards has lost all its real significance today. This is yet another reason why I do not want to interfere with the award.

6. In the result, I find no merit in the appeal and hence dismissed with no costs. Consequently, connected miscellaneous petition is closed.

7. The learned counsel for the appellant submitted that the entire compensation has already been deposited before the Tribunal. I permit the claimant/first respondent to withdraw the same forthwith.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

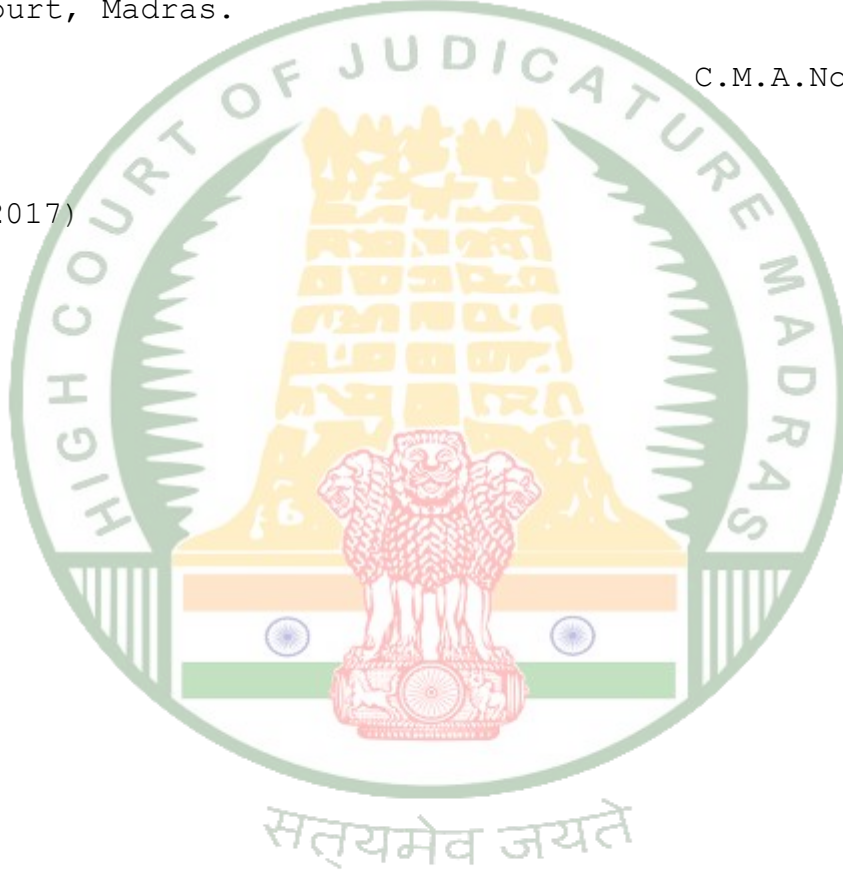
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To

1. The Motor Accidents Claims Tribunal,
(I Additional District Court),
Krishnagiri.
2. The Section Officer,
VR Section,
High Court, Madras.

C.M.A.No.773 of 2003

PVS (CO)
CA(22/05/2017)



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