

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALAC.M.A.No.2116 of 2017
and CMP No.11231 of 2017

The Divisional Manager,
The United India Insurance Company Limited,
Katpadi Road, Vellore ... Appellant

..VS..

1. S.Baskaran (Minor)
Rep. by his father, L.Srinivasan,
S/o. Lokkayya Naidu
2. K.N.Kuppan ... Respondents

Appeal filed under Section 173 of Motor Vehicles Act 1988,
against the decree and Judgment, dated 27.06.2005 made in MCOP
No.138 of 2004 on the file of the Motor Accident Claims Tribunal,
Additional District and Sessions Judge, (Fast Track Court), Vellore.

For Appellant : Mr. S.J.Jagadev

JUDGMENT

Minor S.Baskaran, represented by his father, L.Saravanan,
aged 16 years, a student, met with an accident, on 24.06.2001. In
the accident, he suffered multiple fracture on the left leg, right hip
and simple injuries over the remaining parts of the body.

2. Contending that the injuries suffered has resulted in permanent disablement crippling the life of the minor son, the father has filed the claim petition, claiming a sum of Rs.5,00,000/- as compensation.

3. The Tribunal, on materials placed before it, has awarded a sum of Rs.2,27,319/-. Challenging the award as excessive and disproportionate, the Insurance Company has filed this Appeal.

4. The main contention raised by the learned counsel for the appellant / Insurance Company is that the assessment of disability, as assessed by the Doctor at 45%, is excessive and the Tribunal also ought not to have fixed the disability at 45%.

5. In order to appreciate the said contention, it is necessary to consider the details of materials considered.

6. The Tribunal has relied upon the medical records (Exs.A-2 and A-3). From 25.06.2001 to 21.08.2001, i.e., for a period of two months, the claimant has taken treatment as an inpatient. There

had been loss of flesh and tissues from the lower part of leg, up to thigh level. Because of the loss of muscles, the disablement has been certified at 45%.

7. The learned counsel for the appellant contended that since there is no fracture of bones, the disability at 45% cannot be accepted.

8. The Tribunal has given a finding that broken bones alone will not lead to disablement and the disablement can occur on account of loss of muscles also. In such circumstances, the contention taken by the appellant cannot be accepted.

9. The Tribunal has given a specific finding that the minor has lost the enjoyment of childhood as well as has suffered loss of education, because of the injuries sustained by him. The other breakup details of the compensation are as under:-

Permanent disablement -	Rs.1,50,000/-
Pain and sufferings -	Rs. 10,000/-
Transport Expenses -	Rs. 10,000/-
Medical Expenses -	Rs. 57,319/- (as per bills)

Total -	Rs.2,27,319/-

10. The main contention raised with regard to the quantum of compensation is that the Tribunal ought not to have awarded a sum of Rs.1,50,000/- towards permanent disablement.

10.1. This argument is not liable to be accepted, as the claimant has taken treatment as inpatient for a period of two months, from which, the intensity of the injury can be understood. Pain and sufferings, transport expenses awarded are too low and the cost of attendant has not been awarded at all. The disablement suffered would have a serious impact on the quality of life and therefore, the loss of enjoyment of amenities ought to have been awarded separately and that is also not awarded. Even if the amount of Rs.1,50,000/- (awarded under the head of disablement) is divided under various heads of disablement compensation, the loss of enjoyment of amenities, cost of attendant and the loss of earning capacity, ultimately, the total amount would exceed the amount of Rs.1,50,000/-. Therefore, the grounds raised by the Insurance Company is liable to be rejected and they are rejected accordingly.

11. In view of the above reasonings, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

10.07.2017

Index : Yes / No
Web : Yes / No
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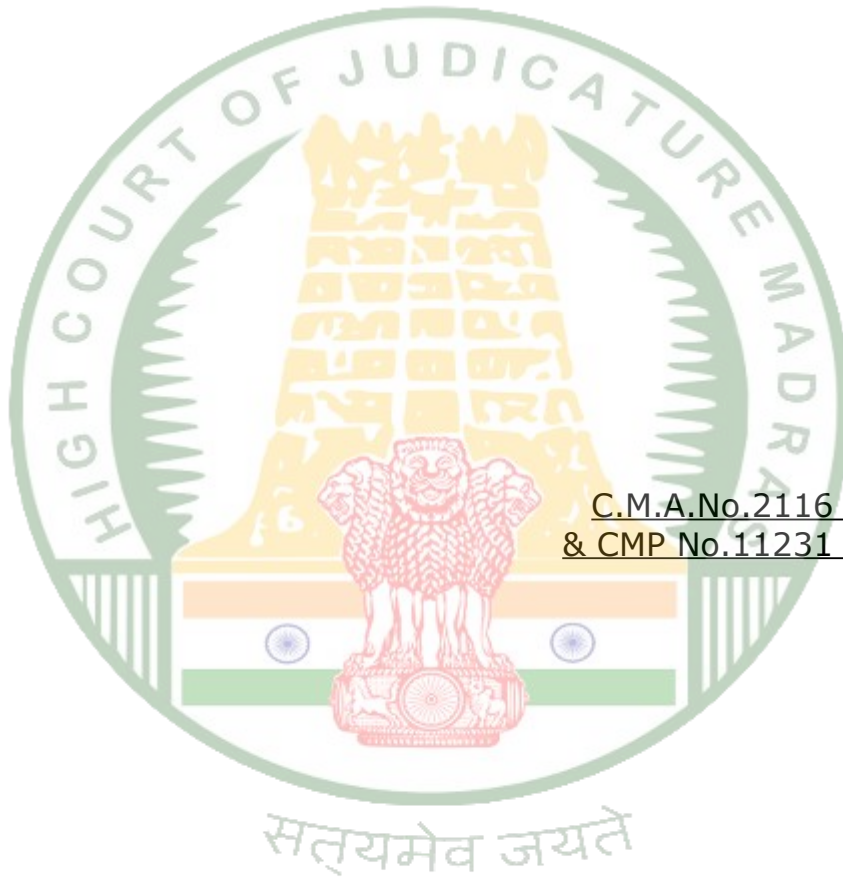
1. Motor Accident Claims Tribunal, Additional District and Sessions Judge, (Fast Track Court), Vellore.
2. The Section Officer, V.R.Section, Madras High Court, Chennai 104



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S.VIMALA, J.,

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