

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A.No.1864 of 2017
(C.M.A.No.SR11954 of 2005)
and
C.M.P.No.10412 of 2005

The Branch Manager,
 National Insurance Co.Ltd.,
 Osmangunj,
 Branch Office,
 15-1-503/B-28, Ashok Market,
 Feelkhana,
 Hyderabad.

... Appellant

Versus

1.C.Senthil Kumar
 2.B.Ravi

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 to set aside the Judgment and decree dated 23.06.2004 and made in M.A.C.T.O.P.No.902/2003 on the file of the Motor Accident Claims Tribunal (Subordinate Court) Krishnagiri.

For Appellant : Mr.S.Vadivel

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JUDGMENT

Petition to condone the delay of 646 days was considered along with merits of the matter. The claimant, C.Senthilkumar, aged 29 years, in Silk Reeling business, earning a sum of Rs.10,000/- met with an accident

16.01.2000.

2.The claim was made claiming that he had suffered the following injuries

- 1.Fracture of right frontal bone,
- 2.Fracture of zygoma right,
- 3.Fracture of proximal and distal phalanx of little finger right hand,
- 4.Fracture with dislocation of 2nd MCP Trapezoit Joint right hand wrist,
- 5.Fracture of left hand PP of index finger,
- 6.Fracture of Radial styloid of left hand,
- 7.Fracture of mid shaft of right femur with fracture of mid 1/3 displaced,
- 8.Fracture of Tibia +fibula of right leg,
- 9.Divarication of pubis symphysis,
- 10.Grievous cut injuries to face,
- 11.Multiple injuries all over body.

3. The claimant filed the petition for a sum of Rs.5,00,000/-, as against which the Tribunal has awarded a sum of Rs.2,04,600/-.

4. Challenging the award as excessive the Insurance company has filed this appeal.

5. The main grounds of appeal are that the Tribunal ought not to have awarded compensation on each and every heads, especially the award passed under the head of simple and grievous injuries at Rs.50,000/- apart

from awarding under the heads of permanent disablement at Rs.50,000/-, and pain and sufferings at Rs.20,000/- are excessive.

6. The Tribunal has allowed the said compensation under the head of simple and grievous injuries, apart from permanent disablement and pain and sufferings, based on the opinion of the Doctor, wherein the Doctor has given disability certificate certifying the disability at 75%.

7. According to the Doctor, there is disfigurement in the face. On account of fracture of zygoma bone, there is malunion and on account of the fracture of tibia bone in the right leg, there is restriction in the movement. On account of this, the Doctor has certified the disability at 75%. It is also evident that out of nine injuries suffered by the claimant, seven injuries have been described as grievous injuries.

8. Therefore, in respect of the injuries, the Tribunal has awarded a sum of Rs.50,000/- towards simple and grievous injuries and Rs.20,000/- towards pain and sufferings.

9. Medical expenses have been claimed based on medical bills and therefore medical expenses have been allowed at Rs.40,600/- (as per actual bills produced).

10. The main grievance of the learned counsel appearing for the appellant/insurance company is that compensation (of Rs.50,000/-) could not have been awarded for injuries exclusively and only for the consequences of the injuries sustained, the award under that head can be given.

11. So far as this case is concerned, the consequences of the injuries are loss of income, loss of earning capacity, loss of enjoyment of amenities, loss of expectation of life and loss to estate,

12. The Tribunal has awarded a sum of Rs.2,000/- towards Transport expenses and Rs.2,000/- towards extra nourishment, Rs.20,000/- towards pain and sufferings. Calculating the loss of income for a period of six months, a sum of Rs.20,000/- has been awarded towards loss of earnings and Rs.20,000/- towards future prospective increase in income. For permanent disablement, a sum of Rs.50,000/- has been awarded. Thus, the total amount of compensation has been estimated at Rs.2,04,600/-. As the injured was guilty of driving the motor vehicle without driving licence and number plate, the Tribunal has deducted a sum of Rs.54,600/- and awarded the compensation of Rs.1,50,000/-.

13. The learned counsel for the claimant would submit that the deduction of Rs.54,600/- for non possession of driving licence and number plate by the Tribunal is unreasonable and therefore the same has to be

14. This Court is of the view that the overall consideration of the materials would go to show that the Tribunal is right in deducting a sum of Rs.54,600/- for non possession of the driving licence and number plate by the claimant. Therefore, the award passed by the Tribunal is perfectly justified and hence the appeal is dismissed. Consequently, connected miscellaneous petition is also closed. No costs.

15. The appellant / insurance company is directed to deposit the entire award amount, along with interest and costs as ordered by the Tribunal, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

16.06.2017

Index : Yes / No
Internet : Yes / No
Speaking / Non speaking
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To

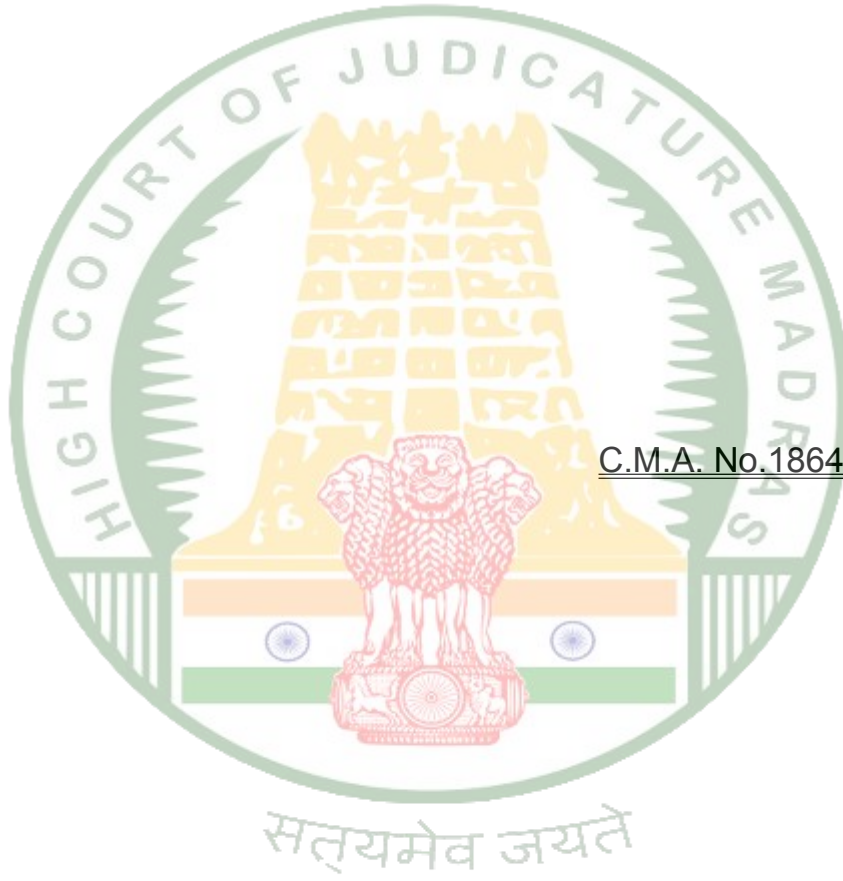
1. Motor Accident Claims Tribunal (Subordinate Court),
Krishnagiri.

2. The Section Officer,
V.R. Section,

High Court, Madras – 104.

Dr.S.VIMALA, J.

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