

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 21.06.2017

CORAM

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A. No.2037 of 2017

and

C.M.P.No.10936 of 2017

The Oriental Insurance Co Ltd.,
179, Easwaran Koil Street,
S.V.Complex, Post Box No.125
Pondicherry

.. Appellant

versus

1. Dhanasekarn
2. Pugazhendhi
3. Sundaramoorthy

.. Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 10.06.2004 made in M.C.O.P.No.425 of 2001 on the file of the Motor Accident Claims Tribunal, (Principal Subordinate Judge) Cuddalore District.

For appellant

Mr.M.Rajasekhar

J U D G M E N T

Challenging the quantum of compensation as exorbitant, the Insurance Company has filed this appeal.

2. Dhanasekaran, claimant aged 38 years, land lord cum leading agriculturist, earning a sum of Rs.20,000/-, met with an accident on 24.09.1999.

3. According to the claimant, he has suffered permanent disablement due to which he has suffered loss of earning capacity Hence the claimant filed a claim

petition claiming a sum of Rs.15,00,000/- as compensation.

4. The Tribunal has awarded a sum of Rs.1,10,062/-. Challenging the same as excessive, the Insurance company has filed this appeal on 29.11.2005.

5. The main contention of the learned counsel for the appellant is that the disability fixed at 40% is excessive and hence, the compensation for permanent disability is also excessive.

6. In order to appreciate this contention it is necessary to look into the details of award passed by the claims Tribunal.

7. According to the Doctor Sivasubramanian there had been restriction of movement of the jaw bone at 45 degrees to the claimant and he has difficulty in taking food itself, and considering the other disability the percentage of disability would be 45%.

8. Considering the period of treatment and nature of injuries, the award has been passed under the following break up details.

Pain and sufferings	-	Rs. 15,000/-
Extra nourishment	-	Rs. 2,000/-
Cost of attendant	-	Rs. 3,000/-
Total medical expenses (medical bills at Rs.4,862/-, X-ray at Rs.200/-,)	-	Rs. 5,062/-
Loss of income for two months permanent disablement, including partial permanent disablement	-	Rs. 10,000/- Rs. 75,000/-

Total - Rs.1,10,062/-

9. The medical expenses awarded is less considering the nature of the injury. More over when the claimants was an agriculturist, when there is difficulty in taking food in due course the claimant would suffer physical disability reflecting on the earning capacity. The Tribunal had not adopted multiplier method for quantifying the loss earning capacity. Disablement compensation alone has been awarded.

10. From the details of award passed, it cannot be said that the award passed is excessive or exorbitant. Even assuming the award passed would be excessive, for the year 1996, it may not be excessive for the year 2017.

11. The Appellant / Insurance Company is directed to deposit the entire award amount, along with interest and costs as determined 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.

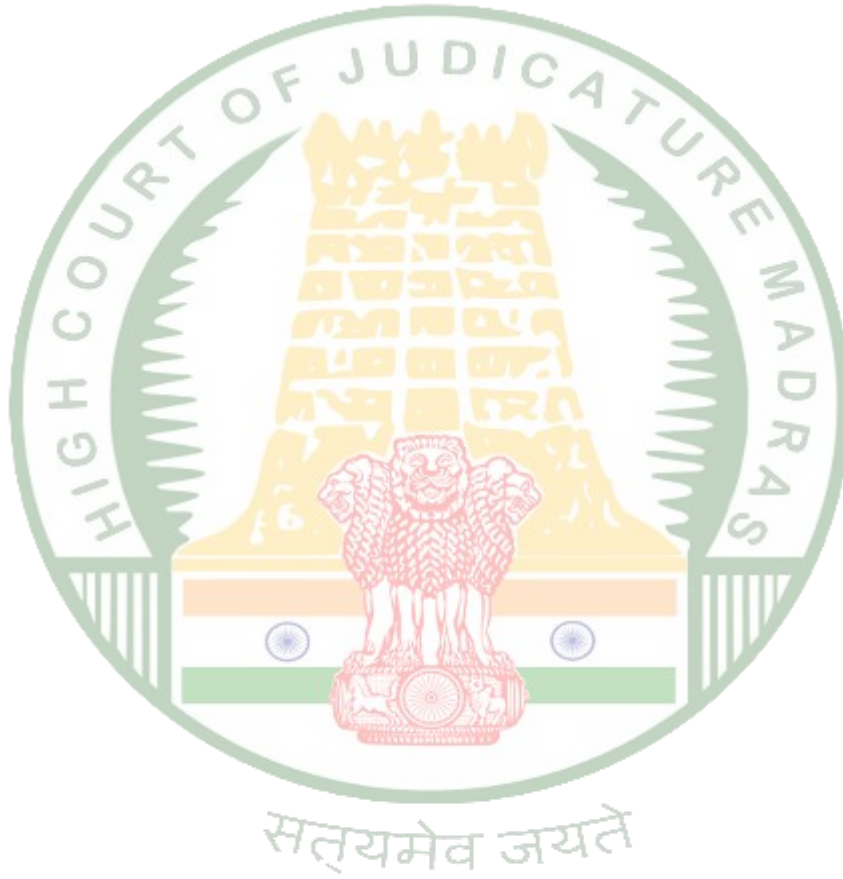
12. In the result, this Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

21.06.2017

Index : Yes/No

To

- 1.Motor Accident Claims Tribunal, (Principal Subordinate Judge)
Cuddalore District.
2. The Section Officer, VR Section,
High Court, Madras.



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Dr.S.VIMALA,J.

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