

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2373 of 2017
and C.M.P.No.12705 of 2017

National Insurance Co. Ltd.,
 Bye pass Road, Dharmapuri

.. Appellant

..VS..

1. Muniammal
 2. Thangavelu

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 28.07.2006 made in MCOP No.5072 of 2004 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Dharmapuri.

For Appellant : Mr. S.Vadivel

J U D G M E N T

As against the claim made for a sum of Rs.3,00,000/-, the Tribunal has passed an award for a sum of Rs.1,51,000/-, which is under challenge by the Insurance Company.

2. The main contention of the learned counsel appearing for

the appellant / Insurance Company is that, when the disablement of the claimant / first respondent has been assessed by the Doctor at 25%, the award at Rs.50,000/- towards permanent disablement is excessive; when the period of treatment is not proved by any document, the award of Rs.50,000/- under the head pain and sufferings is excessive.

3. In order to appreciate the said contentions, it is necessary to find out the heads of claim under which the compensation has been awarded:-

Pain and sufferings	-	Rs. 50,000.00
Partial and permanent disability	-	Rs. 50,000.00
Loss of happiness	-	Rs. 15,000.00
Loss of earning capacity	-	Rs. 15,000.00
Transport to hospital	-	Rs. 3,000.00
Extra nourishment	-	Rs. 5,000.00
Medical expenditure	-	Rs. 5,000.00
Future medical expenditure	-	Rs. 5,000.00
Miscellaneous	-	Rs. 3,000.00

		Rs.1,51,000.00

4. A perusal of the award passed by the Claims Tribunal would go to show that the award passed under the heads of loss of happiness and future medical expenses appear to be unwarranted. So far as the pain and sufferings is concerned, it is the contention of

the learned counsel for the appellant / Insurance Company that, when the disability itself was 25% and in the absence of evidence regarding the duration of treatment, pain and sufferings awarded at Rs.50,000/- is excessive. It is true to certain extent that the length/period of treatment has not given. However, the award passed under the head-pain and sufferings does not depend upon the duration of treatment alone and it is based upon the nature of injuries and consequences suffered on account of that injury. In the absence of sufficient evidence, the pain and sufferings ordered at Rs.50,000/- is reduced to Rs.25,000/-.

5. So far as the injury is concerned, there is a fracture in both the bones of the left hand. At the age of 60 and above 60, necessity of using support as third leg cannot be disputed. Therefore, the loss of enjoyment of amenities has to be compensated and that has not been taken into account. Hence, the award under the head of loss of enjoyment of amenities is fixed at Rs.25,000/-.

6. The award may appear to be slightly on the higher side. But considering the period during which this award has been passed

and considering the high cost of living and reduction in the value of money, the award passed has become reasonable and thus, the compensation awarded by the Claims Tribunal is confirmed, as such. Therefore, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

7. The appellant / Insurance Company is directed to deposit the entire amount of compensation, as awarded by the Claims Tribunal, along with interest at 7.5% per annum, from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Account of the major claimant through RTGS.

27.07.2017

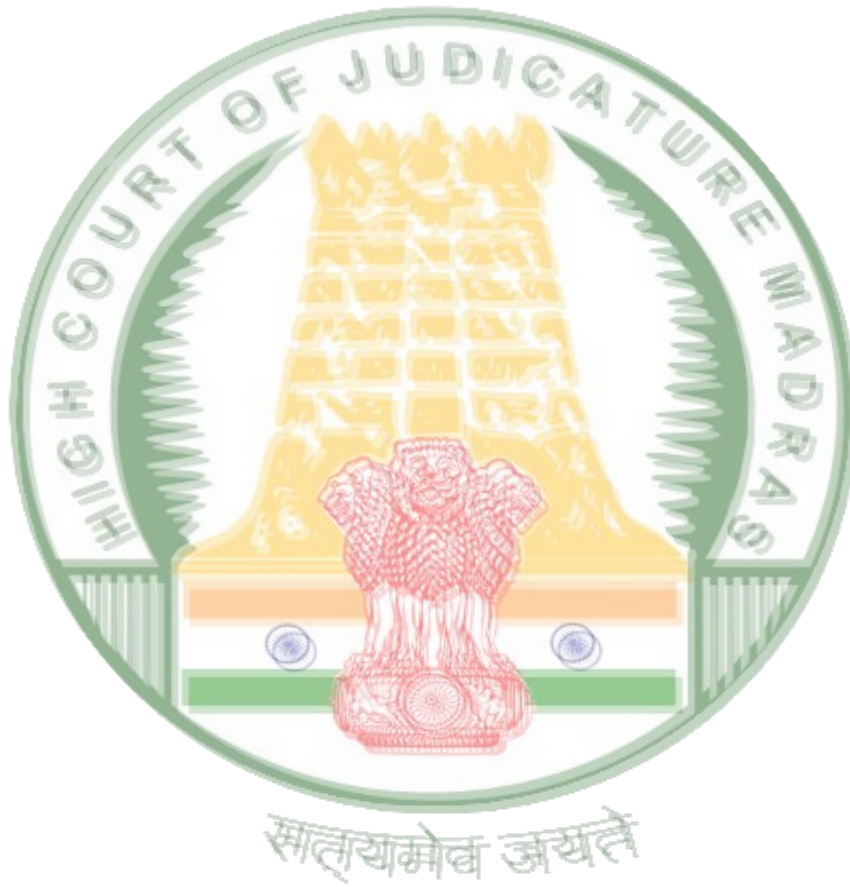
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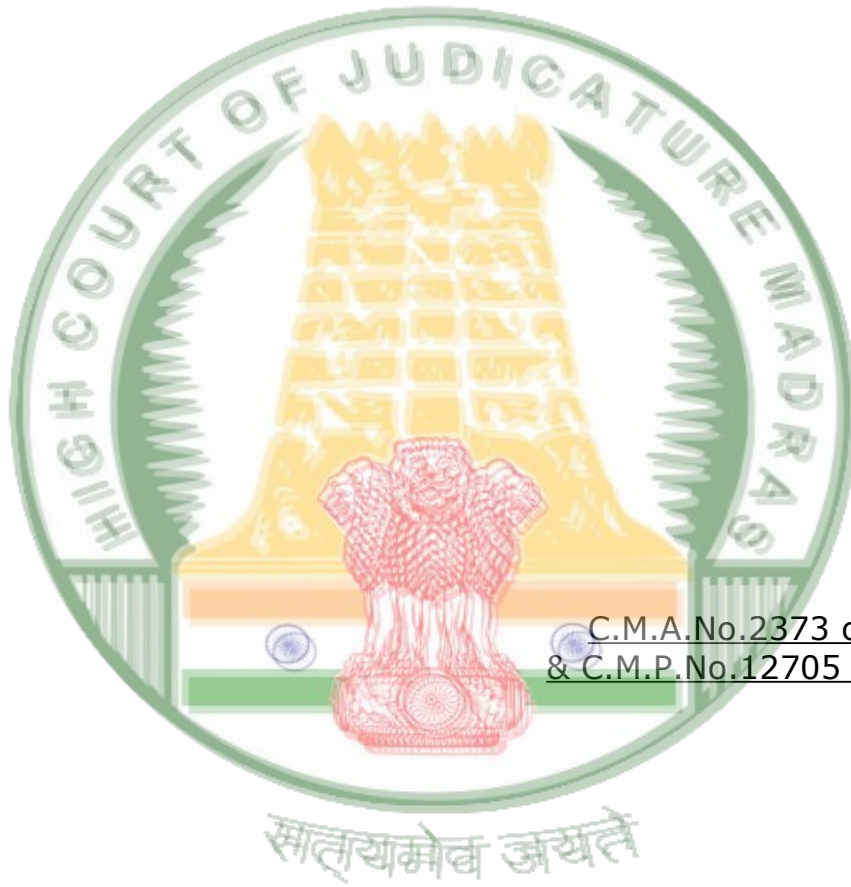
1. Motor Accident Claims Tribunal, Subordinate Court, Dharmapuri.
2. The Section Officer, V.R.Section, Madras High Court,
Chennai 104



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Dr. S.VIMALA, J.,

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C.M.A.No.2373 of 2017
& C.M.P.No.12705 of 2017

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