

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2464 of 2017

and

C.M.P.No.13476 of 2017

The Manager,
United India Insurance Co. Ltd.,
Motor Third Party Cell,
No.38, Anna Salai,
Chennai- 2.

..

Appellant

- Vs -

1.N.Manikandan
2.P.Jayaprakash

..

Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.08.2009 made in M.C.O.P.No.428 of 2005 on the file of the Motor Accidents Claims Tribunal, Sub Court, Tiruvallur.

For Appellant : Mr.S.Arunkumar

For Respondent : Mr.P.D.Selvaraj
No.1

JUDGMENT

The claimant, Manikandan, aged 40, working as a Sales officer in a private institution, earning a sum of Rs.7,000/- plus an incentive of Rs.5,000/- per month, suffered the following injuries in the accident that took place on 17.03.2005 :-

1. Cerebral Concussion
2. Fronto - Temporo Parietal Contusions with Burst Frontal
3. Temporal Lobes Compound Depressed Fracture of Right Frontal.
4. Temporal Bones and lateral Wall Orbit
5. Berlin's Oedema
6. Retinal and Preretinal Haemorrhage Secondary to Trauma Right Eye
7. Sub Arachnoid Haemorrhage
8. Right Forearm Flap Laceration
9. And other serious multiple injuries all over the body.

2. The claim petition was filed contending that the injuries have resulted in permanent disablement, and compensation in a sum of Rs.15,00,000/- was claimed. The Tribunal, considering the oral and documentary evidence awarded a compensation in a sum of Rs.5,34,000/-. Challenging the award as disproportionate to the injuries suffered, the insurance company has preferred this appeal.

3. The learned counsel for the insurance company contended that the percentage of disablement, as spoken to by the Doctor at 45% is not in consonance with the injuries suffered. Therefore, the disability certificate ought not to have been given much importance. It is also contended that the award of

Rs.1,00,000/- towards pain and suffering is exorbitant, considering the fact that the accident was of the year 2005.

4. It is the case of the claimant that there was fracture of skull leading to concussion in the brain for which he had to undergo a lengthy surgery for more than 8 hours. It is stated that medical expenses alone was to the extent of Rs.3,00,000/-. It is further seen that the claimant was taking treatment as an inpatient from 17.03.2005 to 30.03.2005.

5. The doctor has spoken about the details of permanent disablement suffered and he has also spoken about the nature of the skull fracture, which encompass the whole of the skull from right to left side of the head. It is further spoken to by doctor that apart from the above injury to the head, the claimant had suffered grievous injuries over the eyes and jaws and there is disfiguration in the right side of the neck. It is further evidence of the doctor that due to the head injury, the claimant suffers from immobility, speaking discomfort, giddiness, loss of vision and loss of potency.

6. From the award passed under each and every head, it is evident that except for the compensation under the head loss of enjoyment of amenities, which has been awarded at Rs.1,00,000/-,

the compensation awarded under the other heads are reasonable and cannot be termed to be excessive. Accordingly, the compensation awarded under the head loss of enjoyment of amenities is reduced from Rs.1,00,000/= to Rs.65,000/-. Insofar as the compensation awarded under the other heads are concerned, the same are confirmed.

7. Accordingly, the total award stands reduced from 5,34,000/- to Rs.4,99,000/- which shall carry interest at the rate of 7.5% per annum from the date of petition till date of deposit. This appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant/Insurance company is directed to deposit the entire award amount, as quantified by this Court above, along with interest at 7.5% per annum and costs as determined by the court below, less the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, a sum of Rs.1,00,000/- shall be deposited in any one of the nationalized banks initially for a period of three years and renewable thereafter. In respect of the remaining amount, the Tribunal is directed to transfer the amount directly to the bank account of the claimant through RTGS within a

period of two weeks thereafter and the Insurance company is directed to withdraw the surplus amount, if any, which was deposited by it.

25.07.2017

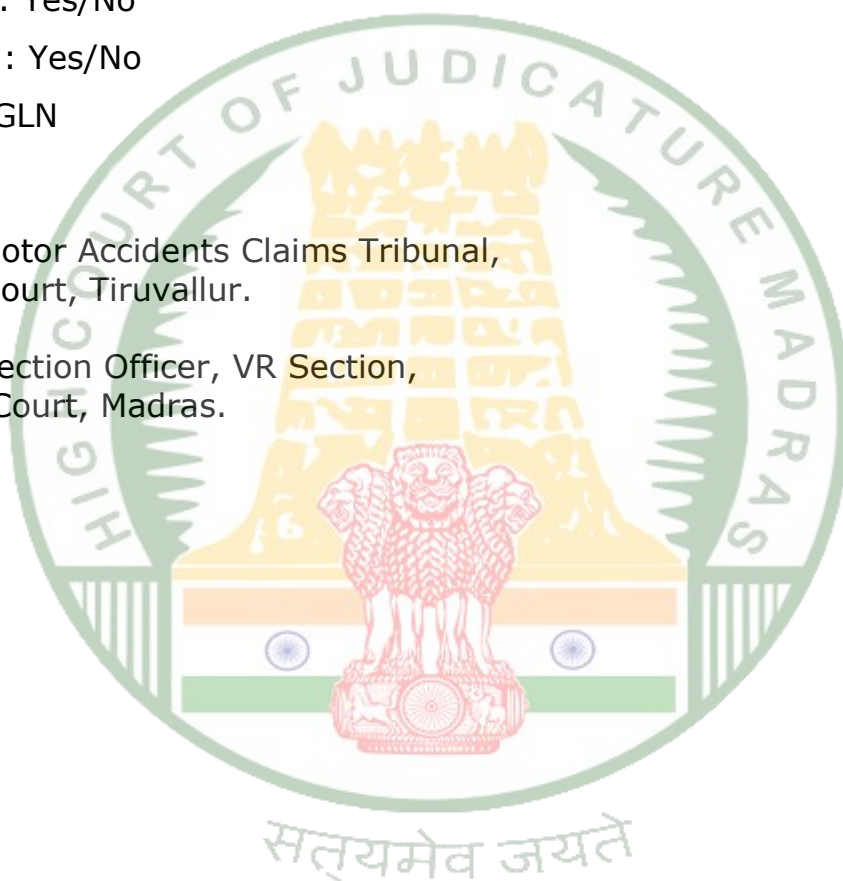
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To

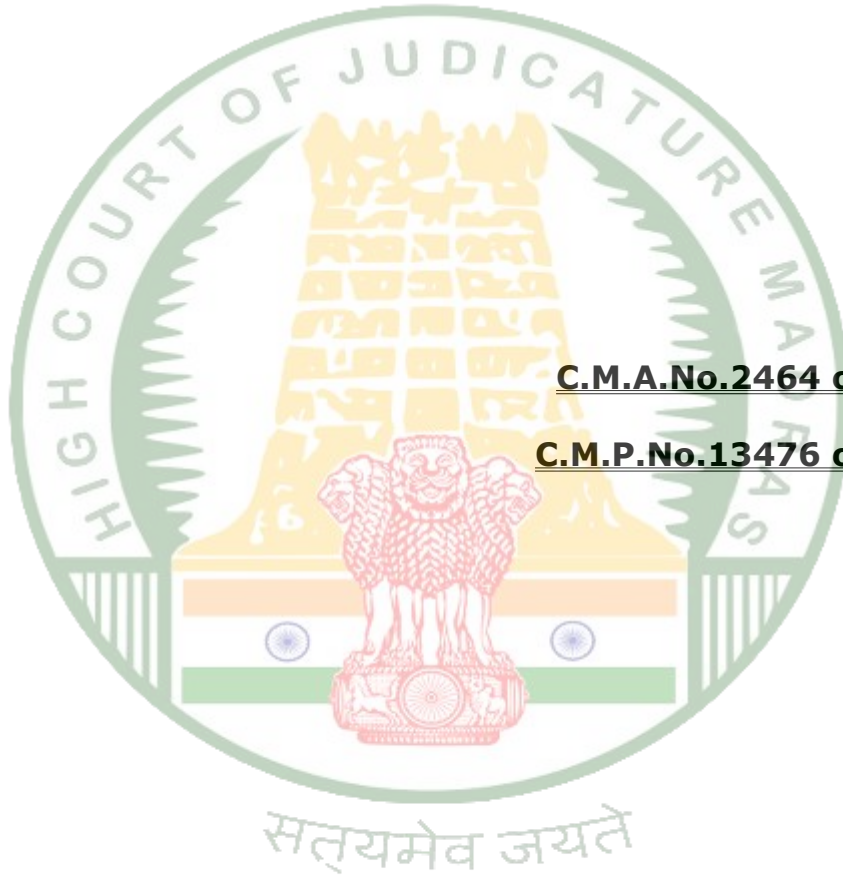
1. The Motor Accidents Claims Tribunal,
Sub Court, Tiruvallur.
2. The Section Officer, VR Section,
High Court, Madras.



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Dr. S.VIMALA,J.

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