

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2513 of 2017
and C.M.P.No.13694 of 2017

1. P.C.P.Radhakrishnan
2. The Divisional Manager,
M/s. United India Insurance Co. Ltd.,
J.N.Street, Pondicherry ... Appellants

..VS..

Powlu @ Vanathaiyan ... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 14.10.2004 made in M.C.O.P.No.54 of 2004 on the file of the Motor Accident Claims Tribunal and Second Additional District Judge, Pondicherry.

For Appellants : Mr. S.Ramalingam

सत्यमेव जयते

J U D G M E N T

The Claimant, aged 47, employed as a Clerk in a Private Civil Contractor Company, filed the claim petition claiming a sum of Rs.3,00,000/- as compensation, in respect of the injuries sustained by him.

2. According to the claimant, he suffered fracture of right knee, skull, teeth and upper jaw. He was originally admitted at Government Hospital, Pondicherry, on 18.08.2003, and discharged on 20.08.2003 and later, admitted himself at Government Hospital, Pondicherry, on 21.08.2003 and discharged on 22.08.2003.

3. The Tribunal has considered the evidence of P.W.2, the Doctor, who issued Ex.A-9-Disability certificate, where disablement has been assessed at 52%. According to the claimant, he was suffering severe headache often, tenderness over the right parietal region and frontal region, Quadric Peivis, vertigo and there was rigidity in the knee, restricting his movement and weakening of the neck of left upper limb and lower limb and arthritis over the right knee and ankle and therefore, his life became paralyzed. Evidence has been let in to show that he was earning a sum of Rs.4,000/- per month. But finding that no documentary evidence has been produced, notional income has been taken at Rs.15,000/- per annum. The compensation has been quantified for loss of earning capacity at Rs.1,24,800/-, adopting the formula (Rs.15,000/- x 52% x 16).

4. Pain and sufferings is awarded at Rs.5,000/-, mental agony at Rs.10,000/-, extra nourishment at Rs.10,000/- and the loss of income for four 164 days is calculated at Rs.15,000/- and thus, the total amount of compensation is quantified at Rs.1,49,964/-.

5. The learned counsel appearing for the second appellant / Insurance Company would submit that there is no justification to adopt the multiplier method of quantification to assess the loss of earning capacity. But, considering the fact that he was aged 47, at the time of accident and the nature of injury, i.e., the injury over the head certainly have cause vertigo, which according to the claimant, had affected his earning capacity and when the Doctor has certified the disability at 52% and this physical impairment would affect his day-to-day activities leading to functional deficiency, the Tribunal cannot be found fault with, for having adopted the multiplier method of quantification.

6. Even assuming that the amount of compensation is lightly higher, considering that this award is of the year 2003, the award has now become inadequate considering the lapse of time and the value of money during this time, i.e., (the prices of the commodities have escalated and the value of the money has reduced), the award

to be utilized in the year 2017 cannot be said to be excessive.

11. In view of the above, the contention that the award passed by the Claims Tribunal is excessive cannot be accepted. The award of compensation passed by the Claims Tribunal is reasonable, just, fair and does not require any interference by this Court. Therefore, the Appeal has no merits and thus, the Civil Miscellaneous Appeal is dismissed, even though the delay has been condoned. No costs. Consequently, the connected CMP is closed.

12. The second appellant / Insurance Company is directed to deposit the amount of compensation, as awarded by the Tribunal, along with interest at 9% per annum (as ordered by the Claims Tribunal), from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of four 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 claimant, through RTGS.

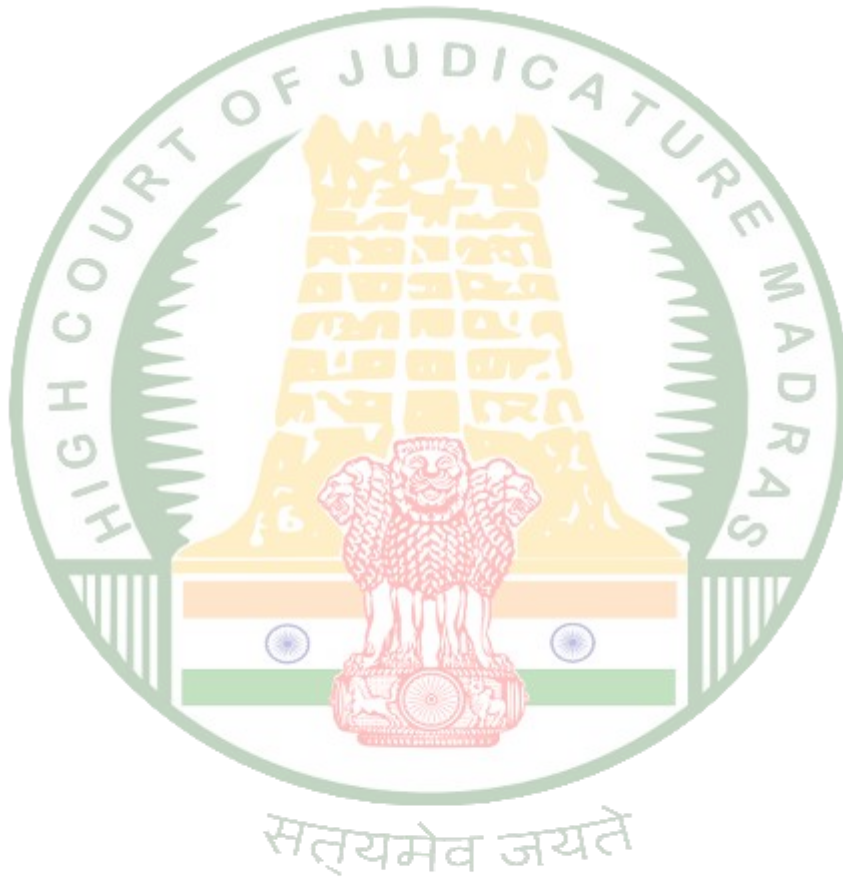
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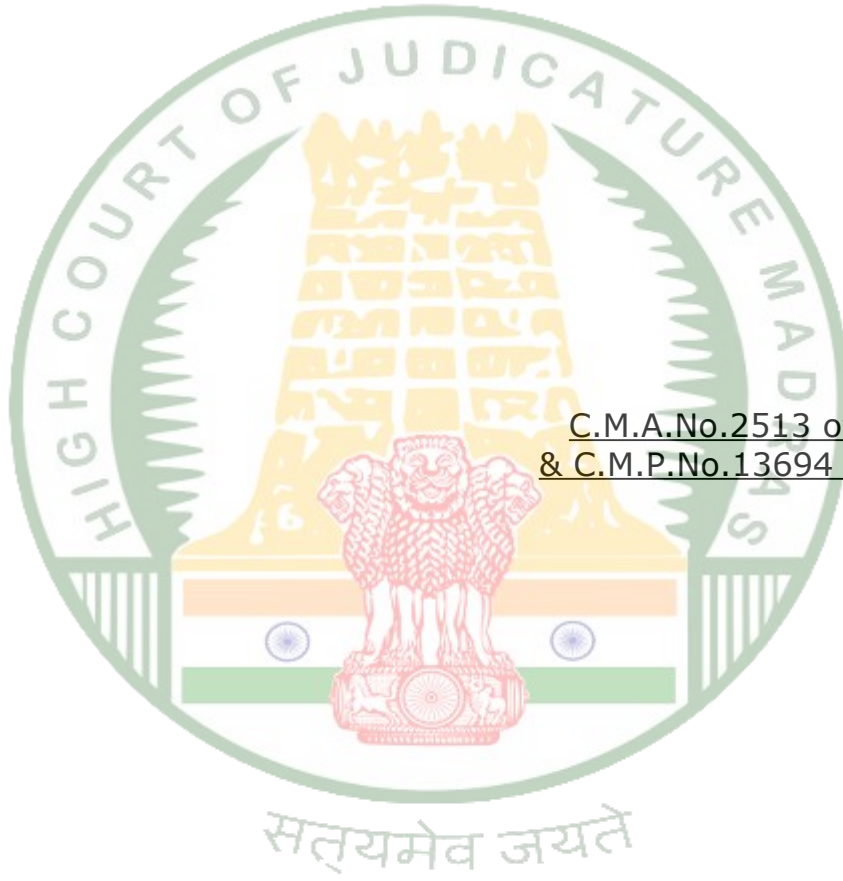
1. Motor Accident Claims Tribunal and Second Additional District Judge, Pondicherry.
2. The Section Officer, V.R.Section, Madras High Court, Chennai 104



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Dr. S.VIMALA, J.,

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