

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2598 of 2017

and

C.M.P.No.14251 of 2017

The Oriental Insurance Co.Ltd.,
No.59, Raja Veethi
Gobichettipalayam.

.. Appellant

/Vs/

1. Nachi
2. A.Periasamy
3. K.Marappan

.. Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.03.2006 made in M.C.O.P.No.217 of 2004 on the file of the Motor Accident Claims Tribunal, First Additional Sub Court, Gobichettipalayam.

For Appellant : Mr.M.Rajasekhar

JUDGMENT

The claimant, Nachi, aged 50 years, wood cutter and doing wood business on commission basis, self employed, earning a sum of Rs.4,500/- per month, suffered injuries in an accident on 04.04.2004 and claiming compensation, the claim petition has been

filed. As against the claim made for a sum of Rs.4,00,000/- the

Tribunal has passed an award for a sum of Rs.1,96,000/-, under the following break-up details:

Loss of income	..	Rs.1,56,000/-
Medical and transport expenses	..	Rs. 20,000/-
Pain and sufferings	..	Rs. 15,000/-
Extra Nourishment	..	Rs. 5,000/-
Total	..	Rs.1,96,000/-

2. The Tribunal, considering the evidence, both oral and documentary, found that the claimant suffered fracture in the right hand and suffered loss of muscle and he took treatment at Coimbatore hospital on 05.05.2004 to 24.05.2004, during which time surgery was performed using implant. Moreover, plate surgery was also performed, to compensate the loss of muscles. Based on the above medical evidence and also based on documentary evidence, fixing the monthly income of the claimant at Rs.4,000/-, the annual income was fixed at Rs.48,000/-.

3. Considering the evidence of the claimant, P.W.1 and the doctor, P.W.2, who treated the claimant and assessed the disability at 25%, loss of earning capacity was calculated at 25%, and based on the ratio laid down in *Sarla Verma's case*, adopting multiplier of 13, the loss of compensation in a sum of Rs.1,56,000/- was

quantified. The Tribunal further awarded compensation under the head 'Transport expenses' at Rs.20,000/-, 'pain and suffering' at Rs.15,000/- and 'extra nourishment' at Rs.5,000/-, in all totalling to a sum of Rs.1,96,000/-. Aggrieved at the said quantification, the appellant has preferred the present appeal.

4. It is the contention of the learned counsel for the appellant that the award under the head of loss of earning capacity is excessive and is liable to be interfered with.

5. The Tribunal, on a consideration of the evidence of the doctor and the period of treatment as an in-patient and the nature of injuries suffered by the claimant, the Tribunal accepted the assessment of the disability at 25%. This Court, on an overall consideration of the evidence and also the reasonings given by the Tribunal to substantiate its conclusion, is of the considered view that not only the assessment of disability by the doctor, but also the acceptance of the same by the Tribunal is fully justified. Further the adoption of multiplier method, in the facts and circumstances of the case is also wholly justified. Not only the quantification of compensation under the head loss of earning capacity, but also the quantification of compensation on all the other heads are just and reasonable. It is to be pointed out that the Tribunal has not

awarded any compensation under the head 'loss of enjoyment of amenities', but in view of the well considered findings rendered by the Tribunal, this Court is not inclined to interfere with the award passed.

6. For the reasons stated above, the award, even in the year 2003, cannot be termed to be excessive or unreasonable, more so the claimant would be receiving the amount only in the year 2017 and keeping in mind the money value and the escalation in the prices of various commodities, the compensation awarded is not liable to be interfered with.

7. There being no merits in the appeal, the same is dismissed. Consequently, connected miscellaneous petition is also closed. However, there shall be no order as to costs.

8. The appellant/Transport Corporation is directed to deposit the entire award amount along with interest at 9% per annum from the date of petition till the date of deposit, less the amount, if any, already deposited, to the credit of MCOP No.217/2004 on the file of the Motor Accident Claims Tribunal (I Addl. Sub Judge), Gobichettipalayam, 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 amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

03.08.2017

Index : Yes/No

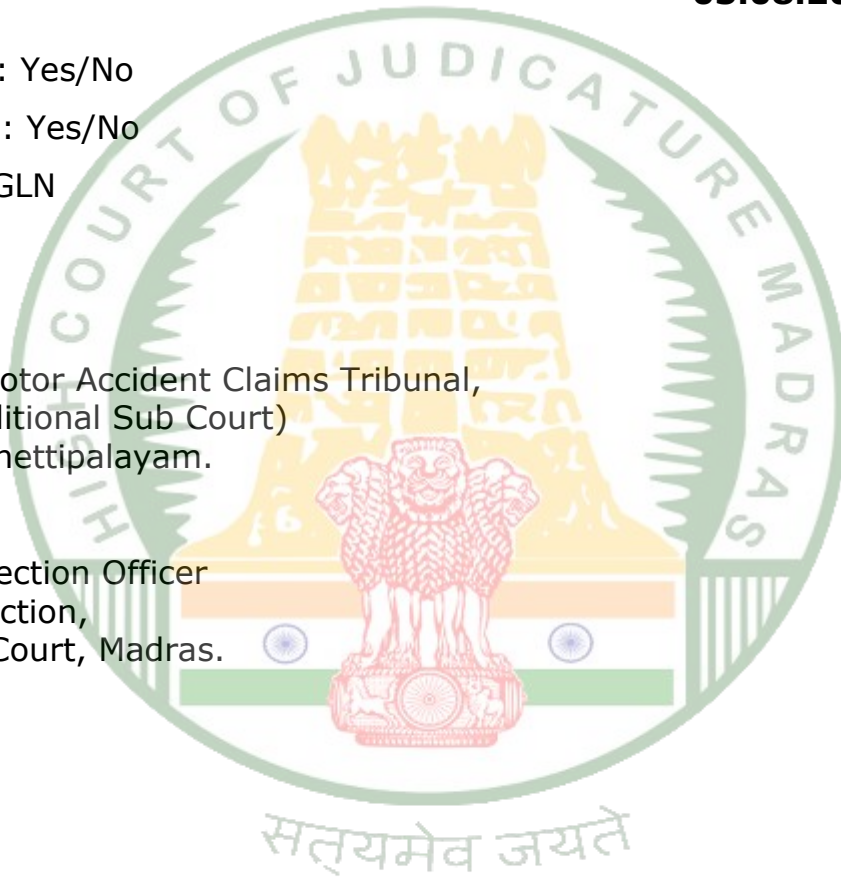
Internet : Yes/No

sms/kv/GLN

To

1. The Motor Accident Claims Tribunal,
(I Additional Sub Court)
Gobichettipalayam.

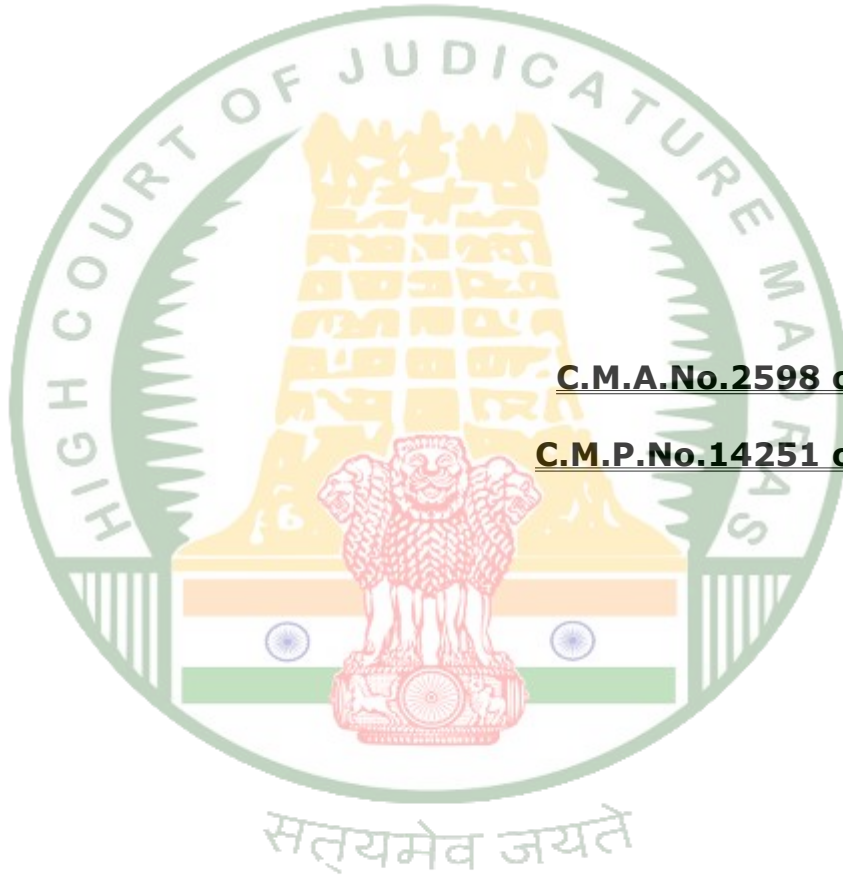
2. The Section Officer
VR Section,
High Court, Madras.



WEB COPY

Dr. S.VIMALA, J.

sms/kv/GLN



C.M.A.No.2598 of 2017
and
C.M.P.No.14251 of 2017

WEB COPY

03.08.2017