

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.09.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2836 of 2017

and

C.M.P.No.16245 of 2017

The Branch Manager
M/s. United India Insurance Co.Ltd.,
Cuddalore

...

Appellant

/Vs/

1. Ramachandran
2. Shanmugam
(R-2 Set exparte in the lower Court) ...

Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.04.2003 made in M.C.O.P.No.427 of 2003 on the file of the Motor Accident Claims Tribunal, (Additional District Judge) Chidambaram.

For Appellant : Ms.N.Mala

JUDGMENT

The claimant, R.Ramachandran, Mason and Agricultural worker, earning a sum of Rs.3,000/- per month, met with an accident on 31.01.2000. The claimant suffered contusion and fracture in the leg and he claimed a sum of Rs.2,00,000/- as compensation.

2. The Insurance Company disputed the liability on the

ground that there was no rash and negligent driving on the part of the owner of the vehicle bearing registration No.TN-31-9100. The specific contention is that the accident took place only on account of the negligence of the injured himself.

3. The Tribunal, on considering the oral and documentary evidence, held that the accident took place only on account of the rash and negligent driving of the insured vehicle and, accordingly awarded compensation. Challenging the above finding on negligence, the insurance company has filed this appeal.

4. The learned counsel appearing for the appellant submitted that the claimant himself has admitted that he was sitting on the main road safeguarding the paddy when the offending vehicle hit him and as such, the claim ought to have been negated.

5. A perusal of the averments made by the claimant in the claim petition reveals that the claimant has stated that he was sitting, not on the main road, but on the extreme left of Kurinjipadi Main Road and was safeguarding his paddy. When the evidence is that he was sitting on the extreme left of the road, in the absence of any evidence contra to the same, it cannot be held that the claimant

was negligent and had invited the accident. The claimant has examined himself before the Tribunal and has spoken about the fact that it was only the driver of the insured vehicle, who was responsible for the accident.

6. The fact remains that the driver of the offending vehicle, who was the best person to speak about the accident on the side of the insurance company has not been examined before the Tribunal. In the absence of contra evidence, holding that the non examination of the driver of the offending vehicle is fatal to the case of the respondents, the Tribunal held that the accident had occurred due to the negligence of the driver of the offending vehicle. In such circumstances, this Court is of the considered view that the finding rendered by the Tribunal relating to negligence is not liable to be interfered with.

7. So far as the quantum of compensation is considered while the claimant made a claim for a sum of Rs.2,00,000/-, the tribunal has passed an award only a sum of Rs.60,000/-.

8. A perusal of the award reveals that for the fracture in the right leg and consequent disability, which is estimated at 48%, the Tribunal has awarded a consolidated compensation of

Rs.20,000/- towards Medical expenses, transport expenses, extra nourishment and pain and and a sum of Rs.40,000/- towards loss of earning capacity and permanent disablement. In all the Tribunal has awarded a sum of Rs.60,000/- as compensation.

9. The accident had happened in the year 2000 and award has been passed in the year 2003. The present appeal has come up before this Court only after a decade, in the year 2017. The compensation awarded by the Tribunal is only a sum of Rs.60,000/- which may appear to be excessive for the year 2003, but not as of now, that is in the year 2017. The compensation awarded is hardly adequate in the face of spiraling inflation and surge in cost of living. Inflation is naturally compounding, and a relentless destroyer of the value of money. The same is supported by the decision of the Hon'ble Supreme Court in the case of ***Rathi Menon v. Union of India (2001 (2) KLT 12 :: 2001 AIR SCW 1074)***, wherein it has been held that when injuries occurred due to accidental falling of a person, considering the value of money etc., compensation shall be payable on the basis of rules prevailing at the time of making the final order for payment of compensation and not on the money value which prevailed on the date of accident. In view of the ratio laid down above, the award cannot be said to be excessive.

10. The appeal, being devoid of merits, is liable to be dismissed and, accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed.

11. The appellant/Insurance Company 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, as determined by the tribunal, less the amount, if any, already deposited, to the credit of the claim petition, 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/first respondent through RTGS within a period of two weeks thereafter.

Index : Yes/No
Internet : Yes/No
sms/GLN

सत्यमेव जयते

06.09.2017

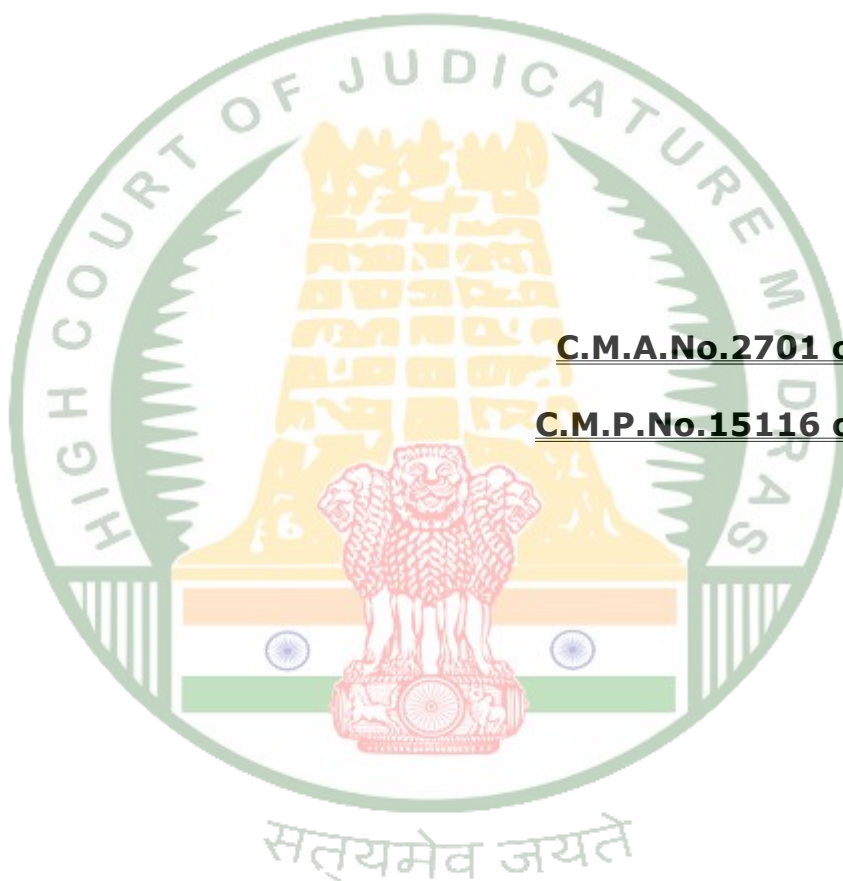
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1. The Motor Accident Claims Tribunal,
The Chief Small Causes Court, Chennai.
2. The Section Officer, VR Section,
High Court, Madras.

DR. S.VIMALA, J.

sms/GLN



C.M.A.No.2701 of 2017
and
C.M.P.No.15116 of 2017

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