

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2018

CORAM

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.NO.1374 OF 2006

and

C.M.P. No.6046 of 2006

United India Insurance Co. Ltd.

Cuddalore

...Appellant/2nd Respondent

Vs.

1. Chenbagavalli

2. D.Sivaji

...Respondents/Petitioner/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act 1988, praying to set aside the Judgment decree dated 31.03.2005 made in MCOP No.133 of 2004 on the file of the Motor Vehicles Accident Claim Tribunal and Fast Track Court No.II and Additional District Judge, Cuddalore.

For Appellant : Mr.S.Ramalingam

For Respondents : R1 - Not ready

R2 - Unclaimed.

JUDGMENT

The appellant is the United India Insurance Co. Ltd., Cuddalore. The present appeal has been filed, questioning the quantum of compensation passed in M.C.O.P No.133 of 2004 by the Additional District Judge, Cuddalore.

2.The first respondent had filed a Claim Petition in M.C.O.P No.133 of 2004 before the Additional District Judge, Cuddalore, claiming a compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident that took place on 27.02.2002. According to him, he was waiting for the bus at Salakkarai Bus Stop, Thiruvanthipuram, Cuddalore District and at about 1 PM, a speedy bus bearing Registration No.TN-25-4375, belonging to the second respondent hit him, as a result of which, he sustained injuries all over his body. He further contended that, he was immediately rushed to a private hospital at Cuddalore and that the rash and negligent driving of the

driver of the bus belonging to the second respondent was the cause of accident. He therefore, contended that the second respondent/Owner of the vehicle and the present appellant, who is the insurer of the said vehicle, are jointly and severally liable to pay compensation to him. The second respondent, the owner of the offending vehicle remained absent before the Tribunal and therefore he was set exparte. The present appellant contested the Claim Petition by filing a counter. The learned Additional District Judge after analysing the evidence on record, awarded a compensation of Rs.1,97,000/- together with interest at the rate of 9% per annum for the injuries sustained by the first respondent/claimant.

3.The learned counsel appearing for the appellant would contend that, the award passed by the Tribunal is on the higher side and therefore liable to be reduced.

4.The first respondent/claimant was a tailor by profession and he was aged 33 years on the date of accident. He sustained a fracture in his left arm and there was also malunion of bones. Dr.Thiru.Sivasubramanian, Assistant Medical Officer, Government Hospital, Cuddalore, has assessed partial permanent disability as 45% and issued permanent disability certificate Ex.P11. Since the claimant was a tailor by profession, the tribunal was right in adopting multiplier method as per the decision of the Honourable Supreme Court in Rajkumar vs Ajaykumar & Another reported in 2011 (1) SCC 343 while awarding the compensation. Though it is contended by the first respondent/claimant that he was earning a sum of Rs.4,500/- per month, the tribunal has fixed the monthly income of the injured/claimant as Rs.2,000/- per month and calculated the partial permanent disability as Rs.1,83,600/-. Apart from the abovesaid amount, the first respondent was awarded a sum of Rs.8,400/- towards transportation charges and a sum of Rs.5,000/- towards the pain and sufferings undergone by the injured claimant. By any stretch of imagination the award passed by the Tribunal can said to be on the higher side. However, it is pertinent to point out that the first respondent/claimant did not file any cross objection/appeal against the quantum of award passed by the tribunal and therefore, the award passed by the tribunal does not warrant interference by this Court.

5. In view of the above observations, the appellant is directed to deposit the entire amount, less the amount already deposited by them together with interest as passed by the tribunal within a period of four weeks from the date of receipt of this order and on such deposit being made, the claimant is at liberty to withdraw the same after following the due procedure of law.

6. In view of the reasons stated by me, the Civil Miscellaneous Appeal is dismissed, no costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

bga

To

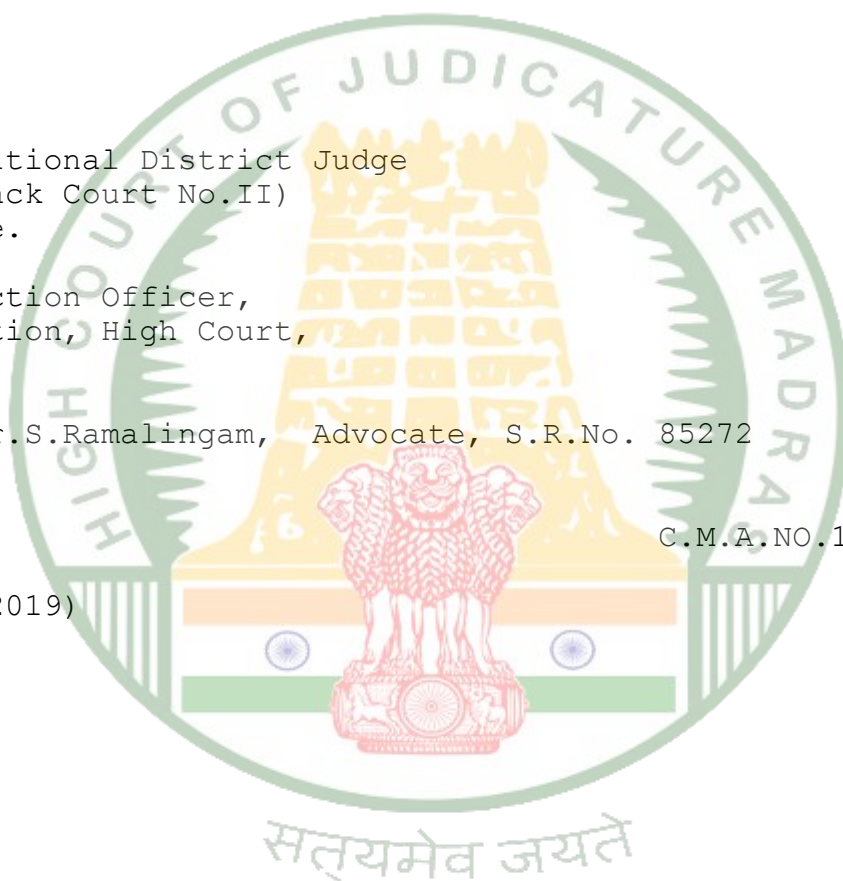
1.The Additional District Judge
(Fast Track Court No.II)
Cuddalore.

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

+1cc to Mr.S.Ramalingam, Advocate, S.R.No. 85272

C.M.A.NO.1374 OF 2006

AK(CO)
GN(06/02/2019)



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