

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.396 of 2006
and
CMP.No.1301 of 2006

The Branch Manager,
United India Insurance Co.Ltd.,
Cuddalore ... Appellant/2nd Respondent

..Vs..

1.Kasturi
2.Sankar ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the order passed in M.C.O.P.No.457 of 2002 dated 29.01.2005 on the file of the Motor Accidents Claims Tribunal, (Principal Sub-Judge), Cuddalore.

For Appellant : Mr.S.Arun Kumar

For Respondents : R1 - No Appearance
R2 - Not Claimed

J U D G M E N T

The appellant is the Branch Manager, United India Insurance Company Limited, Cuddalore. The 1st respondent/claimant filed MCOP.No.457 of 2002 before the Motor Accident Claims Tribunal, Principal Sub-Judge, Cuddalore seeking compensation of Rs.3,00,000/- for the injuries sustained by her in a road accident which took place on 04.01.2002.

2.The brief case of the claimant is as follows:

On 04.01.2002, at about 1.20 hours, the 1st respondent/claimant was travelling in a mini lorry after loading bricks and was proceeding towards Sadarapalayam from Pakkam Village. According to the 1st respondent/claimant, the driver of the mini lorry drove the vehicle in a rash and negligent manner and hit a bullock cart as a result of which, the 1st respondent/claimant sustained injuries all over the body.

3. It is the further contention of the 1st respondent/claimant that the rash and negligent driving of the mini lorry by its driver was the cause for the accident and that since the said lorry was insured with the present appellant, both of them are jointly and severally liable to pay compensation to the 1st respondent/claimant.

4. The learned Principal Sub-Judge, Motor Accident Claims Tribunal, Cuddalore, after analyzing the evidence on record, awarded a compensation of Rs.2,02,000/- together with interest at the rate of 9% per annum to the 1st respondent/claimant.

5. Aggrieved over the award passed by the Tribunal, the United India Insurance Company has filed the present appeal.

6. The learned counsel appearing for the appellant would contend that the injury sustained by the 1st respondent/claimant would not result in 40% of partial permanent disability and the Doctor has wrongly assessed the partial permanent disability. Further, he contended that the award passed by the Tribunal is on the higher side.

7. A perusal of the medical records shows that the 1st respondent/claimant sustained fracture of both bones on his right leg and bones were also malunited and therefore, Doctor Sivasubramaniam (PW3) has assessed the partial permanent disability as 40%.

8. Considering the nature of injuries, the trial Court has awarded compensation of Rs.2,02,000/- together with interest @ 9% per annum. As such, the award passed by the Tribunal cannot be said to be on the higher side and therefore, I do not find any reason to interfere with the award passed by the Tribunal.

9. Accordingly, the appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

bri

To

The Motor Accidents Claims Tribunal,
Principal Sub-Judge, Cuddalore.

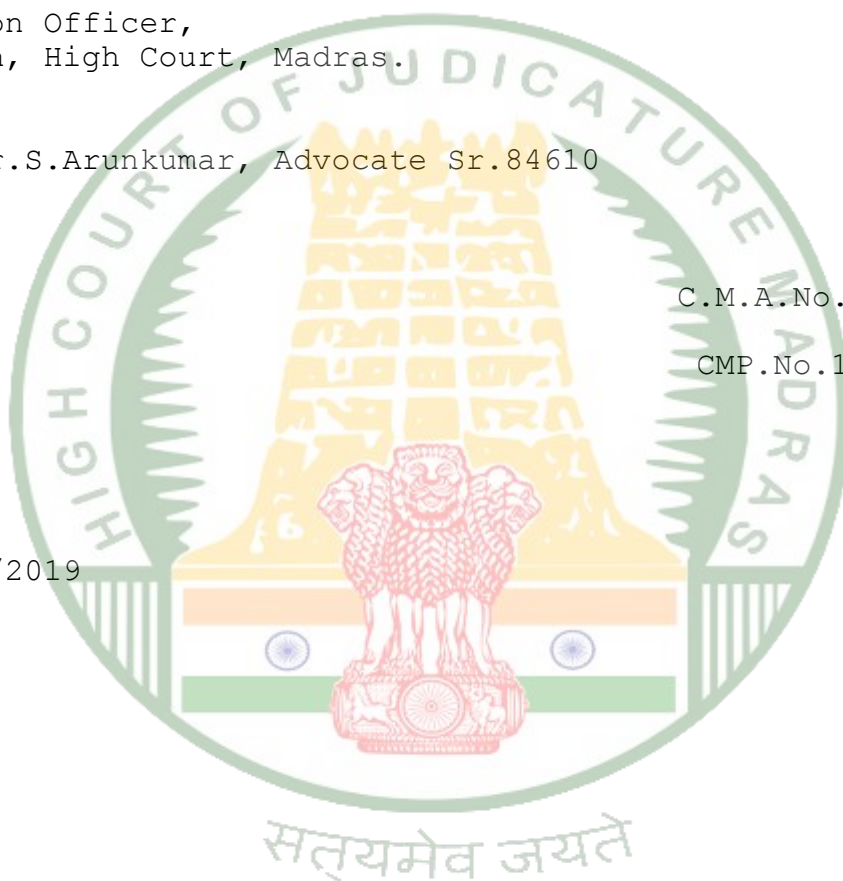
Copy to

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

+1cc to Mr.S.Arunkumar, Advocate Sr.84610

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srg 14/02/2019



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