

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A.No.450 of 2018

and C.M.P.No.3884 of 2018

The Branch Manager,
M/s.Bajaj Allianz General
Insurance Company Limited,
No.24-25, 3rd Floor,
Prince Towers,
Chennai.

... Appellant

vs.

1. Minor.Rajammal
Daughter of Vincent
Rep.by her Father/next friend
and Guardian Mr.Vincent.

2. Vennila

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Decree and Judgment dated 01.06.2017, passed in M.C.O.P.No.215 of 2014 by the Motor Accidents Claims Tribunal (In the Court of Special Sub Judge) at Tiruvannamalai.

For Appellant : Mr.J.Michael Visuvasam

J U D G M E N T

Aggrieved by the award of compensation passed by the Motor Accident Claims Tribunal, (Court of Special Sub Judge) at Tiruvannamalai in MCOP No.215 of 2014 dated 01.06.2017, the Insurance Company has preferred this appeal.

2. On 14.01.2014, the respondent/claimant was traveling in the motor cycle bearing Registration No.PY-01-AH-1582 as a pillion rider. While the rider was riding the vehicle on the extreme left side, the driver of the Mahindra Xylo Car bearing Registration No.TN-25-AE-2947, drove the vehicle in a rash and negligent manner and hit the two wheeler from behind. In the accident the respondent/claimant sustained multiple fractures on

the right leg, left humerus bone, left tibia, left hand, head, forehead, face and other parts of the body. On the basis of the injuries suffered, the respondent/claimant laid a claim before the Tribunal for a sum of Rs.20 lakhs. The Insurance Company denied the manner of the accident and its liability.

3. From the materials on record, it is seen that the eye witness was examined as PW1 and exhibits Exs.P1 to P9 were marked through him. Ex.P1-FIR supported by the evidence of P.W.1-eye witness proved the manner of the accident i.e, it happened due to the rash and negligent driving of the offending vehicle. Considering the same, the Tribunal had found that the rash and negligent driving of the driver of the car only caused the accident. The appellant was the insurer, the liability was fastened on the appellant Insurance Company. I do not find any infirmity in the decision arrived at by the Tribunal. It is well proved by oral and documentary evidence that the rash and negligent driving of the driver of the offending vehicle only caused the accident and since there is insurance coverage on the date of accident and since there is insurance coverage on the date of accident, the appellant Insurance Company is liable to pay the compensation.

4. In so far as the quantum is concerned, the claimant was working as a coolie, the notional income was fixed at Rs.100/- per day and Rs.3000/- per month, and the same cannot be said to be exorbitant. Further, the grievous injury of multiple fracture on the right leg, left humerus bone, left tibia, left hand, head, forehead, face and other parts of the body made her to undergo medical treatment for more than 32 months. The Tribunal has awarded a sum of Rs.96,000/- = (3,000 X 32) towards loss of income during the treatment period. In fact, the Tribunal has not awarded compensation on the heads "loss of estate", "transportation" and "loss of conventional damages". The Tribunal awarded compensation only on the heads of disability, medical expenses pain and suffering, loss of income during treatment period and extra nourishment and therefore it cannot be said that the quantum of compensation awarded by the Tribunal is excessive, therefore, I do not find any merits in the appeal and accordingly the Civil Miscellaneous Appeal is dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal/
Special Sub Judge, Tiruvannamalai.

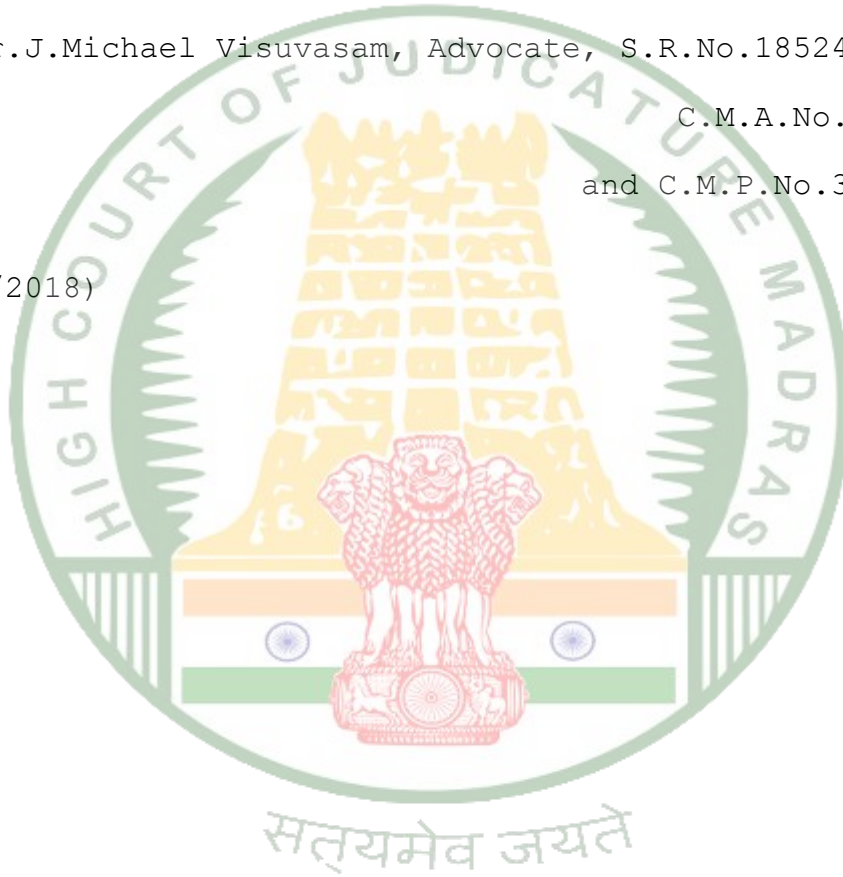
2. The Branch Manager,
M/s.Bajaj Allianz General
Insurance Company Limited,
No.24-25, 3rd Floor,
Prince Towers, Chennai.

+1cc to Mr.J.Michael Visuvasam, Advocate, S.R.No.18524

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CP(CO)
GSP(08/06/2018)



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