

N IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2018

CORAM :

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

C.M.A.No.717 of 2008

and M.P.No.1 of 2008

The Oriental Insurance Co.Ltd.,
rep. by its Manager,
Mackery Circle, Bangalore City,
Karnataka State ... Appellant/3rd Respondent

Vs

1.Minor Farooq
rep. by next friend, mother
Mahaboob Bee ...Petitioner/1st Respondent

2.N.Subramaniam
3.K.R.Sureshkumar Respondents/2nd Respondent

Prayer:- Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Decree and Judgment dated 20.12.2006 passed by the Motor Accident Claims Tribunal (Sub Court), Hosur in M.C.O.P.No.74 of 2004 and allow the C.M.A.

For Appellant : Mr.M.Raja Sekhar
For R1 : Mr.N.A.Nissar Ahmed
For R2 & R3 : Exparte

J U D G M E N T

The instant appeal has been filed by the Insurance Company, challenging the Judgment and Decree dated 20.12.2006, passed by the Motor Accident Claims Tribunal (Sub Court) Hosur in M.C.O.P.No.74 of 2004, in favour of the first respondent.

2. The brief facts leading to the filing of the instant appeal are as follows :

The first respondent is a minor, who was a vegetable vendor, earning a monthly salary between Rs.1500/- and Rs.2000/-. On 10.04.2004, he met with an accident caused by a bus bearing Registration No.KA 01 AS 100 insured with the appellant. On account of the accident, he has suffered head injury and was hospitalised and was kept in ICU for seven days and discharged on 17.04.2004. The first respondent made a claim of Rs.5,00,000/- before the Motor Accident Claims Tribunal against the appellant seeking compensation for the injuries suffered by him. The Motor Accident Claims Tribunal by Judgment and Decree dated 20.12.2006 passed an Award, awarding a

compensation of Rs.80,000/- in favour of the first respondent together with interest at the rate of 9% per annum from the date of claim till the date of realisation. Aggrieved by the Award passed by the Motor Accident Claims Tribunal, the instant appeal has been filed.

3. Heard Mr.M.Raja Sekhar, learned counsel for the appellant and Mr.N.A.Nissar Ahmed, learned counsel for the first respondent.

4. The primary ground for challenge in the instant appeal is that the compensation awarded in favour of the first respondent is an excessive one and that the Tribunal has erroneously awarded a sum of Rs.50,000/- towards pain and suffering which the claimant is not entitled under law.

5. Per contra, the learned counsel for the first respondent would submit that the first respondent was hospitalized for a number of days and he was in the ICU for more than seven days, which has also not been disproved by the appellant by any contra evidence. Therefore, according to the learned counsel for the first respondent, the compensation awarded in favour of the first respondent is in accordance with law and the compensation awarded towards pain and suffering amounting to Rs.50,000/- is also in accordance with the settled principles of law.

6. Considering the suffering the first respondent has undergone on account of the injuries suffered by him due to the accident, this Court, after having considered the findings of the Tribunal in the impugned Award, does not find any infirmity in the said finding. As rightly pointed out by the learned counsel for the first respondent, the first respondent was under hospitalisation for considerable number of days and he had to be in the ICU for more than seven days, which will clearly establish that the first respondent has suffered pain and suffering on account of the injuries suffered by him. Further, the appellant has also not produced any contra evidence before the Tribunal to disprove the claim of the first respondent. This Court does not find any merit in the instant appeal.

7. Accordingly, this Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

LPP

To

1. The Presiding Officer,
Motor Accident Claims Tribunal (Sub Court),
Hosur.

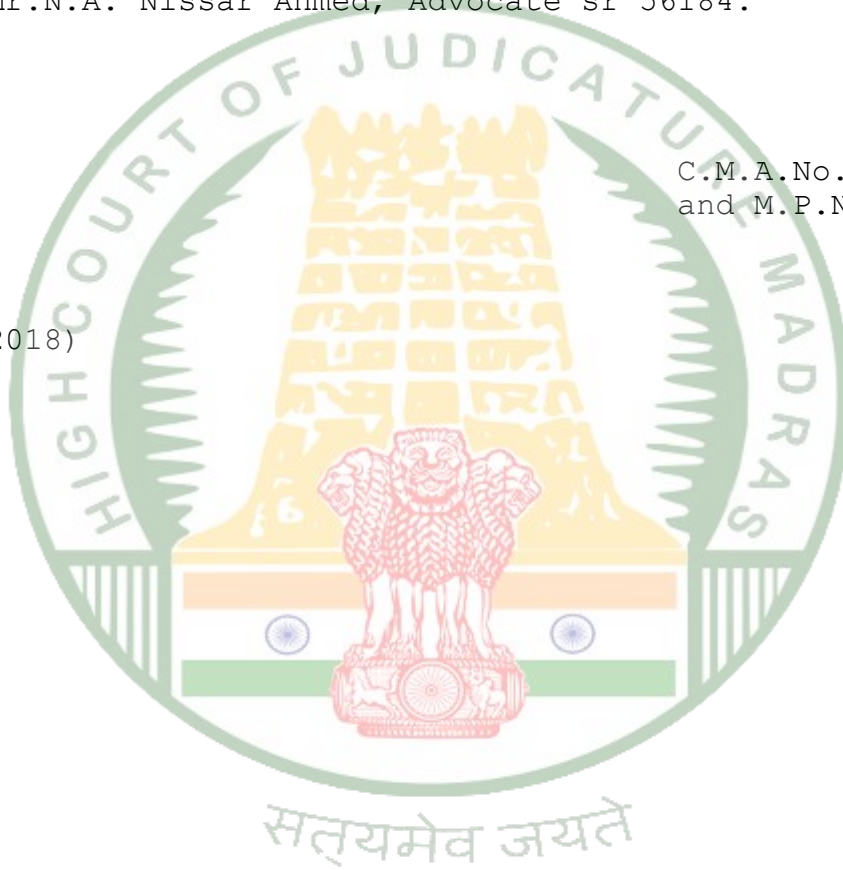
2. The section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.M. Rajasekar, Advocate sr 56308.

+1 CC to Mr.N.A. Nissar Ahmed, Advocate sr 56184.

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AD(CO)
SP(20/09/2018)



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