

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.1451 OF 2006

The Branch Manager

The New India Assurance Co.Ltd.

39C Bye Pass Road

Dharmapuri.

... Appellant/2nd Respondent

Vs

1.Manivel

2.K.Nalliayan

...

Respondents/Petitioner/

1st Respondent

Prayer:-

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 25.06.2004 made in MACTOP No.627 of 2003 on the file of the Motor Accidents Claims Tribunal and the Court of First Additional District Judge at Krishnagiri.

For Appellant : Mr.S.Ramalingam

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.2,25,000/- towards compensation to the first respondent / claimant due to the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 23.10.2002 the first respondent was walking in the mud road to the opposite of Madava Granites, Thoppur at Salem Dharmapuri National Highway to go to his house. At about 11.30 hours, a tractor bearing Reg.No.TN-29-D-7648 came from the back side of the first respondent and dashed against him. Due to the said impact, the first respondent sustained grievous injuries. The first respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total

compensation of Rs.2,25,000/- with interest at the rate of 9% per annum from the date of petition.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has not correctly assessed the age of the claimant while estimating the loss of income. Further, the Tribunal has erroneously taken the monthly income of the claimant at Rs.2,500/- while arriving at the loss of income. He finally submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Even though this appeal was admitted way back in the year 2006, no steps have been taken by the appellant Insurance Company to serve papers to the other side for their appearance.

6.Heard the learned counsel for the appellant.

7.The learned counsel for the appellant has only disputed the quantum of compensation awarded by the Tribunal. Ex.P2 is the Wound Certificate, from which it is seen that the claimant's right side pelvis bone was broken. Further there was an injury in the left thigh of the claimant. P.W.2-Doctor examined the claimant and assessed the disability at 30%. The Disability Certificate has been marked as Ex.P5. He also deposed that 30% disability is not an exaggerated one. Considering the materials and evidence on record, the Tribunal came to the conclusion that the first respondent / claimant sustained 30% disability and accordingly awarded a sum of Rs.1,53,000/- towards loss due to permanent disability, by fixing the monthly income at Rs.2,500/- and adopting the multiplier of 17 (Rs.2500/- x 12 x 17 x 30/100). The Tribunal has adopted the correct multiplier and correctly assessed the loss of income due to permanent disability. Hence the same does not require any interference by this Court. The amounts awarded towards other heads are also very reasonable and hence the same are also confirmed.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy

of this judgment. On such deposit, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM

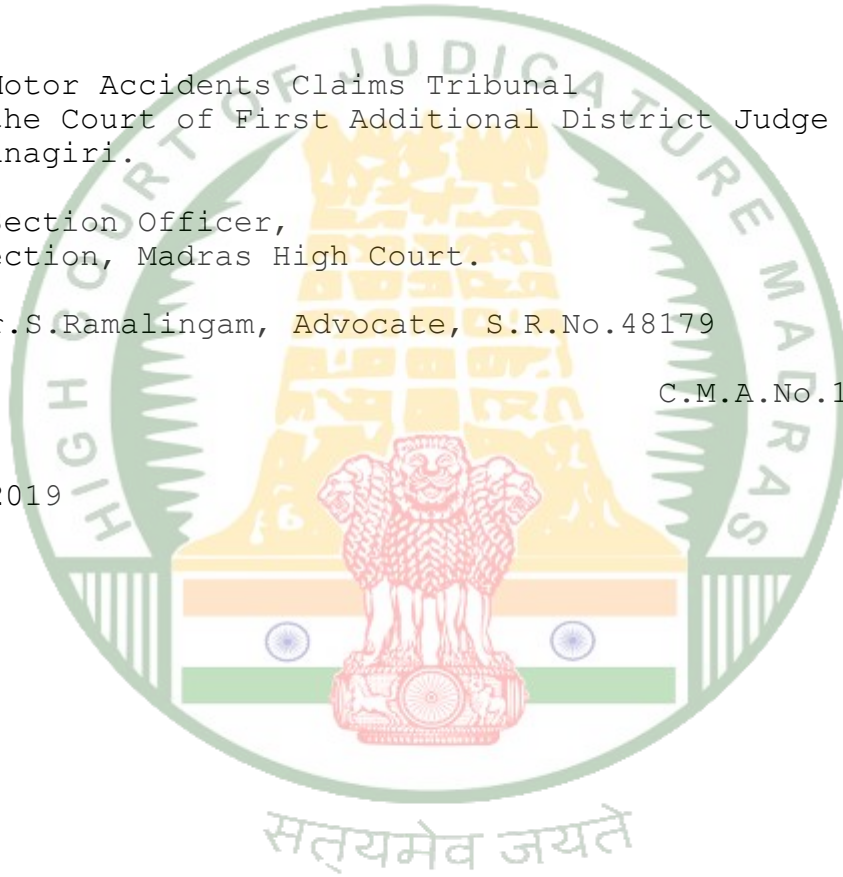
To

1. The Motor Accidents Claims Tribunal and the Court of First Additional District Judge at Krishnagiri.
2. The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.S.Ramalingam, Advocate, S.R.No.48179

C.M.A.No.1451 of 2006

NMI (CO)
CS/20/11/2019



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