

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2044 of 2005
and C.M.P.No.10821 of 2005

National Insurance Co. Ltd.,
Dharmapuri Branch, Bye-pass Road,
Dharmapuri ... Appellant/IInd Respondent

..vs..

1. Arumugham ...Respondent/Petitioner
2. M.Subramanian
(R-2 remained exparte before the Lower Court),
... 2nd Respondent/I Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 30.06.2004 made in MCOP No.1247 of 2002 on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Dharmapuri District at Krishnagiri.

For Appellant : Mr. N.Vijayaraghavan

J U D G M E N T

As against the claim made for a sum of Rs.5,00,000/-, the Tribunal has passed an award for a sum of Rs.2,24,500/-, in respect of the grievous injuries and the permanent disablement suffered by the claimant, Arumugham.

2. The claimant, aged 26, employed as Maistry, earning a sum of Rs.4,000/- per month, met with an accident on 31.03.2002. In respect of the injuries sustained, the claimant was given native treatment and subsequently, treated at Government Quarters Hospital, Dharmapuri and also at private clinics at Dharmapuri and Krishnagiri. He suffered fractures in thigh bone, left leg and he also suffered dislocation of left joint bone near to hip and there is shortening of leg.

3. The Doctor has certified the disability at 35%. The Doctor has spoken to about the impact of disability upon the claimant's earning capacity also. According to the Doctor, the left leg of the claimant has suffered shortening by 5 cms. The circumference is also reduced. In this case, the disablement has been certified by the Doctor, who has treated the injured. Taking into account all these factors, the Tribunal has quantified the compensation under the following breakup details:-

Pain, sufferings and mental agony	-	Rs. 50,000.00
Loss of future earnings on account of Permanent disability	-	Rs.1,62,000.00
Transportation expenses	-	Rs. 5,000.00
Extra Nourishment	-	Rs. 2,500.00
Loss of earnings	-	Rs. 5,000.00

		Rs.2,24,500.00

4. The Tribunal has observed that, for Maistry works, in the City limits, the daily income would be Rs.200/- and in other areas, the daily income would be Rs.120/- and ultimately, rendered a finding that the daily income would be safely taken at Rs.120/-, but, still, the loss of income per month has been fixed only at Rs.2,500/-. Thus, the loss of income has been quantified at Rs.1,62,000/-. Along with the loss of income, other pecuniary damages have been taken into account and the total amount of compensation was arrived at Rs.2,24,500/-.

5. From the details of the award passed by the Tribunal, it is evident that the compensation on account of cost of attendant and loss of enjoyment of amenities have not been awarded at all. As alleged by the appellant, if the adoption of multiplier method to assess the compensation for loss of future earnings on account of disability is on the higher side, it can be adjusted under the head of loss of enjoyment of amenities and cost of attendant.

6. Considering the overall facts and circumstances, the award passed by the Claims Tribunal is reasonable and it does not require any interference by this Court. Thus, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

7. The appellant / Insurance Company is directed to deposit the amount of compensation, interests and costs, as awarded by the Claims Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the

said sum to the Savings Bank Account to the claimant / first respondent herein, through RTGS, thereafter.

Sd/-
Assistant Registrar(Spl cell)

//True Copy//

Sub Assistant Registrar

srk

To

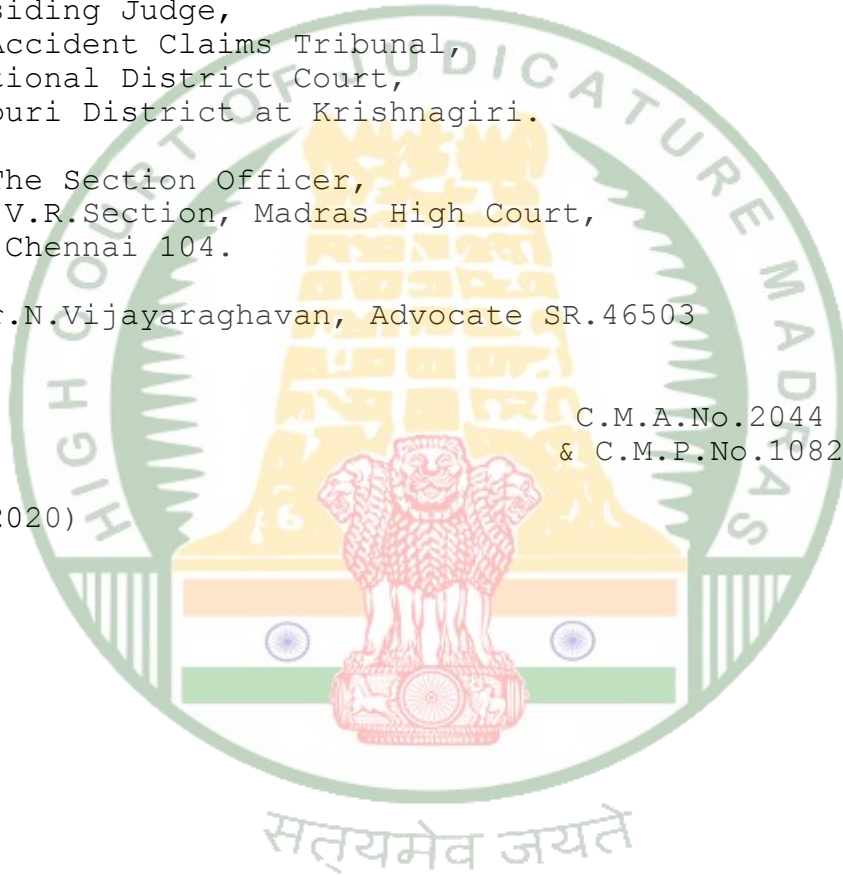
1.The Presiding Judge,
Motor Accident Claims Tribunal,
I Additional District Court,
Dharmapuri District at Krishnagiri.

Copy to: The Section Officer,
V.R.Section, Madras High Court,
Chennai 104.

+lcc to Mr.N.Vijayaraghavan, Advocate SR.46503

C.M.A.No.2044 of 2005
& C.M.P.No.10821 of 2005

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