

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 18.06.2019  
CORAM:  
THE HON'BLE Mr. JUSTICE R.MAHADEVAN  
Civil Miscellaneous Appeal No.2603 of 2007  
& M.P.No.1 of 2007

The New India Assurance Co. Ltd.,  
No.1 Bharathi Road, Arcot Woodlands Building,  
Cuddalore ... Appellant/2nd respondent

..vs..

1. S.Abdul Kafoor ...1st Respondent/claimant
2. R.Sheik Ameer  
(R-2 set exparte by the Court below)...2nd Respondents/  
1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 06.02.2007 made in M.C.O.P.No.1691 of 2004 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Cuddalore.

For Appellant : Mr. C.Ramesh Babu

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company, challenging the quantum of compensation awarded by the Claims Tribunal.

2. In respect of an accident that took place on 01.06.2004 at about 09.15 pm at Adhivaraga Nallur, Chidambaram - Cuddalore Main Road, the injured, S.Abdul Khafoor (first respondent herein) has filed a petition for compensation for a sum of Rs.10,00,000/-. As against the said claim, the Tribunal has awarded a sum of Rs.4,72,000/- as total compensation. Challenging the quantum as excessive, the Insurance Company has filed the Appeal.

3. The learned counsel appearing for the appellant / Insurance Company submitted that the Tribunal erred in applying the theory of multiplication and the amount of Rs.4,62,000/- awarded under the head of loss of income on account of 35% disability is illegal, in view of the decisions rendered in the injury cases.

4. The Tribunal, based upon the facts, materials and evidence adduced has granted the compensation, by taking into account the annual loss of income at Rs.10,000/-, by adopting the multiplier of '12' and percentage of disability at 35% and ultimately, calculated the loss of income at Rs.4,62,000/-; Medical Expenses and pain and sufferings have been estimated at Rs.2,000/- and Rs.8,000/- and thus, the total compensation was estimated at Rs.4,72,000/-.

5. This Court is of the opinion that the compensation awarded under all the heads by the Tribunal are reasonable, weight of evidence and based on settled principles and thus, there is no ground to interfere with the judgment passed by the Tribunal below. Further, the grounds taken by the Insurance Company on the point of liability cannot be raised at this stage and therefore, it cannot be accepted at this distant point of time. Further, the Tribunal has not awarded any sum towards extra nourishment, cost of attendant and loss of enjoyment of amenities. If those claims are awarded, the amount of Rs.4,62,000/- awarded under the head of loss of income, which is stated to be at a higher range, would get offset and therefore, there is no necessity to modify the quantum of compensation already awarded by the Claims Tribunal, as the compensation awarded by the Tribunal is just, fair and reasonable.

6. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, 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 deposited amount to the Savings Bank Account of the claimant / injured / first respondent herein, through RTGS, one week thereafter. Consequently, the connected MP is closed.

सत्यमेव जयते

-s/d-

Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal,  
Principal Sub Court, Cuddalore.

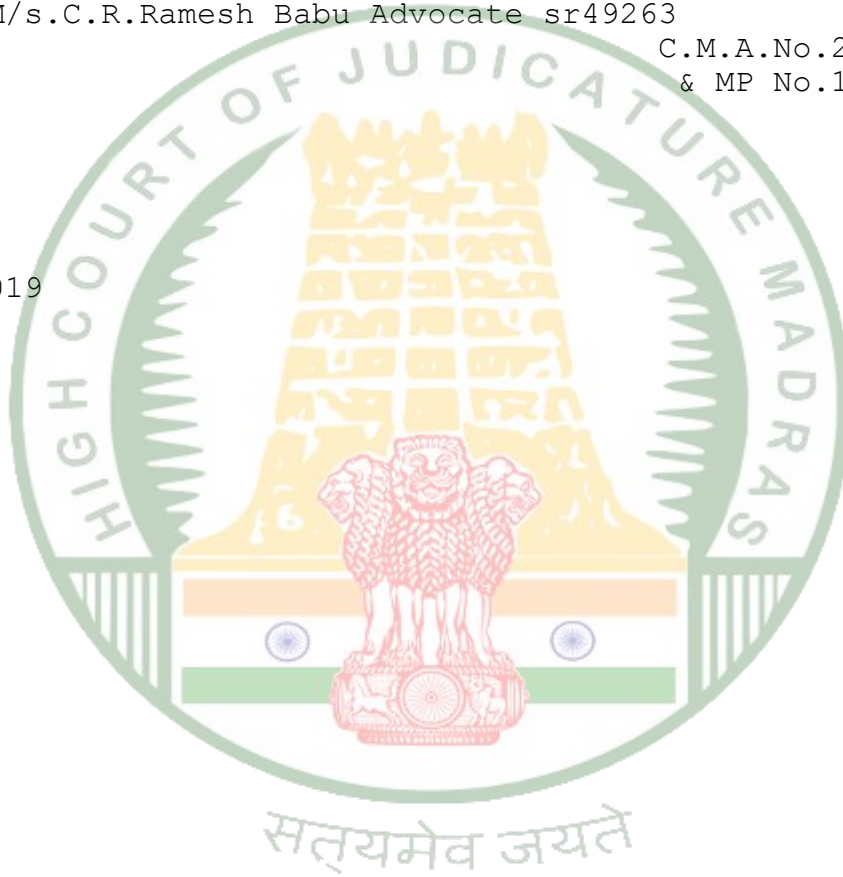
copy to

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

+1 cc to M/s.C.R.Ramesh Babu Advocate sr49263

C.M.A.No.2603 of 2007  
& MP No.1 of 2007

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