

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.2451 OF 2008

M/s. National Insurance Company Ltd
C/o Motor Third Party Claims Office
751 Anna Salai
Chennai-6

... Appellant/2nd Respondent

Vs

1.Bivekananda Prahan
2.N.Sethupandian

... Respondents/Petitioner
1st Respondent

Prayer:

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 07.11.2007 made in MCOP No.120 of 2006 on the file of the Motor Accidents Claims Tribunal/Subordinate Judge cum Chief Judicial Magistrate, Tiruvellore.

For Appellant : Ms.R.Sree Vidhya

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the award of a sum of Rs.3,24,000/- towards compensation to the first respondent herein.

2.The case in brief, is as follows:

On 03.08.2004, at about 9.00 am, when the claimant was going to his office situated at Nungampakkam from Nanganallur, by his Motor cycle bearing Reg.No. TN 22 AD 6409, a lorry bearing Reg.No. TAQ 0827, came in a rash and negligent manner hit the two wheeler, due to which, the palm of the claimant's left hand was completely crushed and his left thumb was amputated. Hence, the claimant/ the 1st respondent filed a Claim petition before the Tribunal. On consideration of the evidence available on record, the Tribunal awarded a total compensation of Rs.3,24,000/- with interest at the rate of 7.5% per annum from the date of petition, to the claimant.

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

4. Heard the learned counsel for the appellant.

5. The learned counsel for the appellant submitted that the Tribunal has erred in awarding a disproportionate compensation to the claimant, especially Rs.65,000/- towards permanent disability, without appreciating the doctor's evidence and not following any recognized formula for the same. The learned counsel further submitted that the award passed by the Tribunal under other heads are excessive and exorbitant, which have to be reduced.

6. On a perusal of the award of the Tribunal would go to show that due to the said accident, the claimant sustained crush injury and his left thumb was also amputated. In order to prove the same, the claimant has produced Ex.P.2 Discharge Summary, Ex.P.7 Disability Certificate, Exs.P.8 and 9 Photos and X-rays. Apart from that, the Doctor, who issued Disability Certificate to the claimant has also been examined as PW2. He clearly narrated about the nature of injuries sustained by the claimant. It was revealed from his evidence that due to the crush injuries, the usage of the left hand of the claimant has been restricted and hence he assessed the disability of the claimant as 65%. In the absence of any contra evidence to disprove the same, the contention raised by the learned counsel for the appellant that without appreciating the doctor's evidence, the Tribunal has awarded disproportionate compensation under the head "permanent disability" is not at all sustainable and is accordingly rejected by this Court.

7. Regarding the quantum of compensation awarded under the various heads, it is crystal clear that the Tribunal has rightly considered the evidence of PW 3, who was the Manager of the Company, in which the claimant was working at the time of accident and Ex.P.4 Salary Certificate, Ex.P.5 Identity Card, Ex.P.6 Promotion Certificate and Ex.P.10 Permission Letter and quantified the compensation. As such, this Court is of the opinion that the total compensation of Rs.3,24,000/- awarded by the Tribunal is just and reasonable and the same cannot be said to excessive and exorbitant, warranting no interference.

8. In such view of the matter, the Civil Miscellaneous Appeal is dismissed by confirming the award passed by the Tribunal. 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 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/Respondents 1 herein, through RTGS, within one week thereafter.

Sd/-
Assistant Registrar (COMP)

//True Copy//

Sub Assistant Registrar

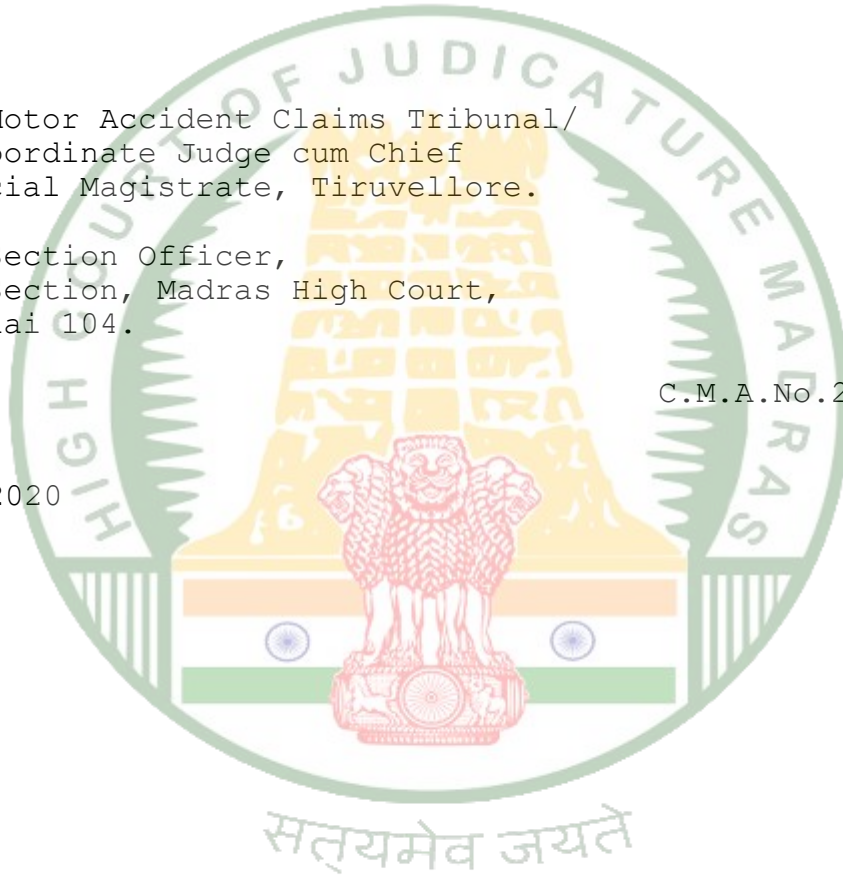
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To

1. The Motor Accident Claims Tribunal/
Subordinate Judge cum Chief
Judicial Magistrate, Tiruvellore.
2. The Section Officer,
V.R.Section, Madras High Court,
Chennai 104.

C.M.A.No.2451 of 2008

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