

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3803 of 2008 and
M.P.No.1 of 2008

The United India Insurance
Company Ltd., Perambalur. Appellant/Respondent

Vs.

1.PandiyanRespondent/Petitioner

2.S.Rajam

(R-2 set exparte in the
lower Court)

.... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 31.01.2006 made in MCOP No.366 of 2002 on the file of the Motor Accident Claims Tribunal (Presiding Officer/Member/Sub Judge) at Chidambaram.

For Appellant : M/s.N.Mala

J U D G M E N T

The claimant/first respondent herein filed a claim petition, claiming a sum of Rs.9,00,000/- as compensation for the injuries sustained by him in the accident which occurred on 12.05.2002 at about 4.00 p.m. on the Sirkali - Chidambaram Road, due to the rash and negligent driving of the driver of the truck bearing Registration No.TN.27 U 7299 belonging to the second respondent and insured with the appellant insurance company.

2.The Tribunal, based on the evidence and documents, has awarded a total compensation of Rs.6,32,000/- with interest at the rate of 8% per annum from the date of petition.

3.Challenging the same, the present appeal has been filed by the appellant insurance company.

4.This appeal has been filed in the year 2008 and no steps have been taken by the appellant to serve papers to the other side, even at this length of time. However, due to paucity of time, this appeal is taken up for final disposal, on merits.

5.The learned counsel for the Appellant/Insurance Company has submitted that while arriving at the compensation towards loss of income, the Tribunal has erred in adopting the higher multiplier of 17 on the basis of the age of the first respondent, overlooking the settled legal proposition that the selection of multiplier in injury cases is based upon nature of injuries, loss of earning capacity and nature of disability etc. In all, she submitted that the compensation awarded by the Tribunal at Rs.6,32,000/- is on the higher side.

6.Heard the learned counsel for the appellant and perused the materials available on record carefully.

7.Considering the materials and evidence, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the truck and the said finding is not disputed by the learned counsel for the appellant insurance company.

8.With regard to the compensation awarded by the Tribunal, based on the documents produced, treatment given and the surgeries undergone by the injured, the Tribunal has awarded a sum of Rs.6,32,000/-, only on two heads, i.e., loss of income at Rs.6,12,000/- and pain and suffering at Rs.20,000/-, which in the considered view of this Court, is perfect and justified one.

9.In the result, affirming the award of the Claims Tribunal, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10.The appellant /Insurance Company shall deposit the entire award amount along with interest and costs, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgement. On such deposit being made, the Tribunal is directed to transfer the amount lying in the deposit, to the Savings Bank Account of the first respondent herein within one week thereafter, through RTGS.

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Sd/-
Assistant Registrar

//True Copy//

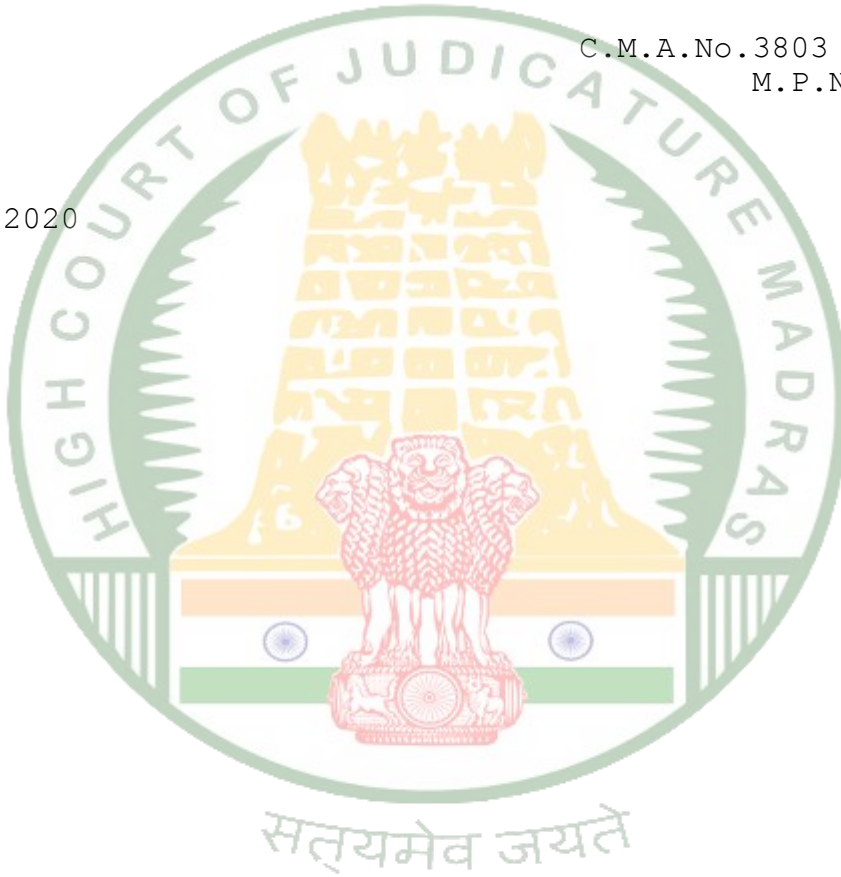
Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal (Presiding Officer/Member /Sub Judge) at Chidambaram.
2. The Section Officer,
V.R. Section
High Court, Madras.

C.M.A.No.3803 of 2008 and
M.P.No.1 of 2008

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