

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2019

CORAM:

THE HON'BLE Mr.JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.1767 of 2009
& M.P.No.2 of 2009United India Insurance Co. Ltd.,
Salem..Appellant/2nd Respondent

..vs..

1. Vetrivel

..1st Respondent/Claimant

2. J.Manikandhan

..2nd Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 28.10.2004 made in M.C.O.P.No.837 of 2001 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge, Salem.

For Appellant : Mr. S.Arun Kumar

For Respondents : No Appearance for R2

JUDGMENT

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

2.The first respondent/claimant met with an accident on 04.07.2001, while proceeding in a motorcycle bearing Regn.No.TN30 8875, insured with the appellant insurance company as a pillion rider. Hence, he filed a claim petition claiming a compensation of Rs.3,00,000/-. On consideration of the materials and evidence adduced by the parties, the Tribunal awarded a total compensation of Rs.2,05,643/- with interest at 9%pa from the date of petition. Aggrieved over the same, the Insurance Company has filed the present appeal.

3.The learned counsel for the appellant has disputed only the quantum of compensation awarded by the Tribunal. According to him, the compensation awarded by the Tribunal is excessive,

exorbitant and disproportionate to the injuries sustained by the first respondent/claimant.

4. Heard the learned counsel for the appellant/insurance company and perused the materials available on record. Despite the service of notice, there is no representation on behalf of the second respondent. In respect of the first respondent/claimant, the appellant insurance company has not taken proper steps to serve notice on him. However, taking note of the passage of time, this Court is inclined to proceed with the appeal on merits.

5. Since the appellant insurance company has disputed only the quantum of compensation awarded by the Tribunal, the findings of the Tribunal on negligence and the liability of the appellant insurance company are hereby confirmed.

6. The first respondent/claimant examined himself as P.W.1, according to whom, he was aged about 30 years and was earning a sum of Rs.10,000/- per month. The Tribunal based on Ex.P1-FIR and Ex.P2 wound certificate, has taken the age of the first respondent/claimant as 30 years and has determined his monthly income at Rs.2,500/-. The evidence of P.W.1 with regard to the injuries including loss of teeth, received by him due to the accident, was supported by P.W.2, doctor, who issued Ex.P8 disability certificate to the tune of 40%. The Tribunal, considering those materials and evidence, has calculated the compensation under the head "loss of income" at Rs.1,89,000/-, by fixing the annual income of the injured at Rs.30,000/-, adopting the multiplier of '18' and percentage of disability at 35%. Further, the Tribunal has awarded Rs.6,143/-, Rs.5,000/-, Rs.4,000/-, Rs.1,000/- and Rs.500/- towards Medical Expenses, pain and suffering, Extra nourishment, Transport Expenses and damage to clothes respectively and thus, estimated the total compensation at Rs.2,05,643/- with interest at 9%p.a.

7. This Court is of the opinion that the compensation so awarded by the Tribunal under all the above heads are just, very reasonable and also based on the weight of evidence and the settled principles of law. Hence, there is no good reason to interfere with the judgment so passed by the Tribunal and is hereby confirmed as such.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interest 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 within a period of one week thereafter. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

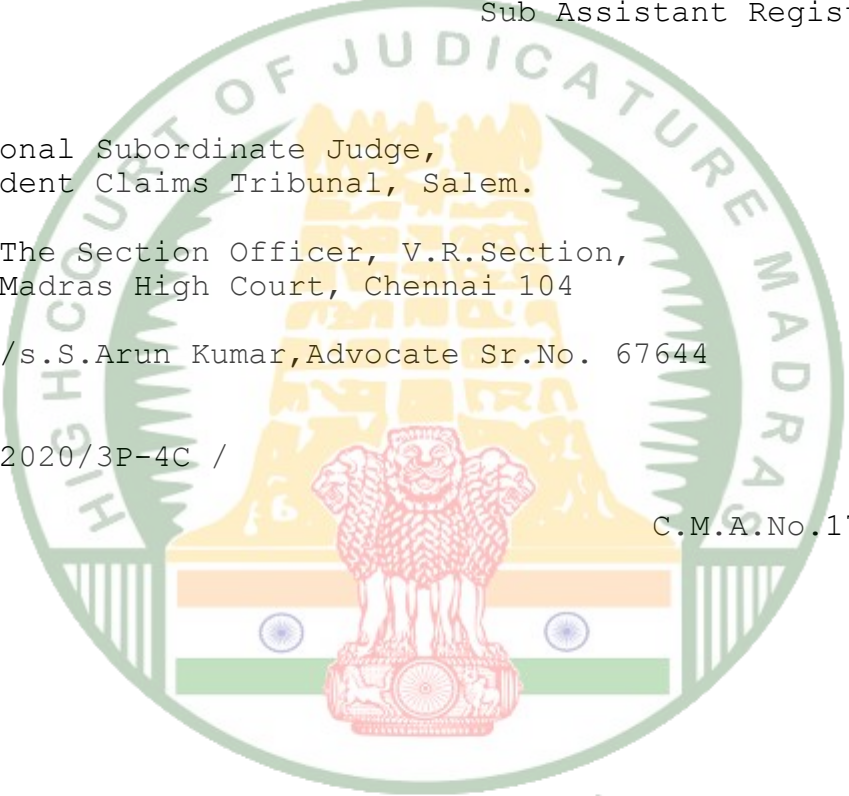
The Additional Subordinate Judge,
Motor Accident Claims Tribunal, Salem.

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

+1 cc to M/s.S.Arun Kumar, Advocate Sr.No. 67644

AKM/20.03.2020/3P-4C /

C.M.A.No.1767 of 2009



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