

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2253 of 2015

Royal Sundaram Alliance
Insurance Co.Ltd.,
Kimberley Towers,
Y-222, 1st Floor, 2nd Avenue,
Anna Nagar, Chennai - 600 040. Appellant/2nd Respondent

Vs.

1. S.Karthick1st Respondent/Petitioner
2. M/s.Bethal Agencies,
No.5,Immanuvel 2nd Street,
Devanesan Nagar,
Peerankaranai,
Chennai - 600 063.2nd Respondent/1st Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 17.02.2015 passed in M.C.O.P.No.4852 of 2013 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.M.B.Gopalan

For R1 : Mr.R.Kalaiarasan

J U D G M E N T

The civil miscellaneous appeal is filed against the judgment and decree dated 17.02.2015 passed in M.C.O.P.No.4852 of 2013 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

2. The accident occurred on 01.04.2013, around 14.50 hours, at Velacherry Main road, Selaiyur, Chennai - 600 049. A case was registered in Crime No.459 of 2013 by Mount Traffic Investigation, Pallavaram. Chennai. The 1st respondent (hereinafter would be referred to as "the claimant") sustained

fracture of both bones right leg, head injury, lacerated injuries and multiple injuries all over the body. A claim petition was filed before the Tribunal seeking compensation of Rs.8,00,000/- and the Tribunal adjudicated the issue with reference to the documents as well as the evidences produced by the respective parties.

3. The Tribunal arrived at a conclusion that the accident had happened only due to the rash and negligent driving of the driver and accordingly found that the claim is covered under the policy.

4. Heard Mr.M.B.Gopalan, learned counsel for the appellant and Mr.R.Kalaiarasan, learned counsel for the claimant.

5. The learned counsel for the appellant mainly contended that the quantum of compensation granted by the Tribunal is exorbitant and not in commensuration with the nature of injuries sustained by the claimant. He further contended that the claimant produced only out-patient chit (Ex-P2) and out-patient card (Ex-P3) and not even produced any discharge summary, so as to establish that he was treated as an in-patient in the hospital, contrarily, he was treated as out-patient and produced only out-patient chit (Ex-P2) and out-patient card (Ex-P3), and therefore, the Tribunal has granted excessive compensation than that of the one which is to be granted in accordance with the principles laid down by this Court.

6. Dr.K.J.Mathiazhagan, who medically examined the claimant and issued disability certificate (Ex-P6) regarding the fracture, was examined as PW2. Dr.K.J.Mathiazhagan (PW2), in his evidence, has deposed that the injuries sustained by the claimant are permanent partial disability in nature and given disability percentage at 45 % partial and 3 % permanent.

7. Considering the evidence of Dr.K.J.Mathiazhagan (PW2) and the disability certificate (Ex-P6) issued by him, the Tribunal fixed the disability as 40 % and accordingly, the quantum of compensation was fixed and the total compensation of Rs.6,37,000/- was awarded.

8. The learned counsel for the appellant reiterated that the award of compensation on various heads are exorbitant, which deserves to be re-considered, more specifically, the compensation granted for pain and suffering, extra nourishment, loss of earning, loss of income, future medical expenses all are exorbitant.

9. In such perspective of the matter, this Court is inclined to consider the appeal and re-schedule the award of compensation granted by the Tribunal as under:

S.No.	Compensation on various heads	Award of Compensation (in Rs.)
1.	Disability (40 % x Rs.3000)	1,20,000/-
2.	Pain and suffering	50,000/-
3.	Extra nourishment	25,000/-
4.	Transport to hospital	15,000/-
5.	Damages to clothes	3,000/-
6.	Attender charges	20,000/-
7.	Medical expenses	4,553/-
8.	Loss of amenities	50,000/-
9.	Loss of income (6500 x 4)	26,000/-
	Total	3,13,553/-

Accordingly, the total amount of compensation payable to the claimant is Rs.3,13,553/-.

10. It is brought to the notice of this Court that the appellant had already deposited 50% of the compensation amount awarded by the Tribunal and the said amount has already been withdrawn by the claimant. It is pertinent to note that 50% of the compensation amount awarded by the Tribunal, which was withdrawn by the claimant, is excess than the award of compensation granted by this Court in the present appeal. Thus, no further amount of compensation is required to be deposited by the appellant.

With this modification, this Civil Miscellaneous Appeal stands allowed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

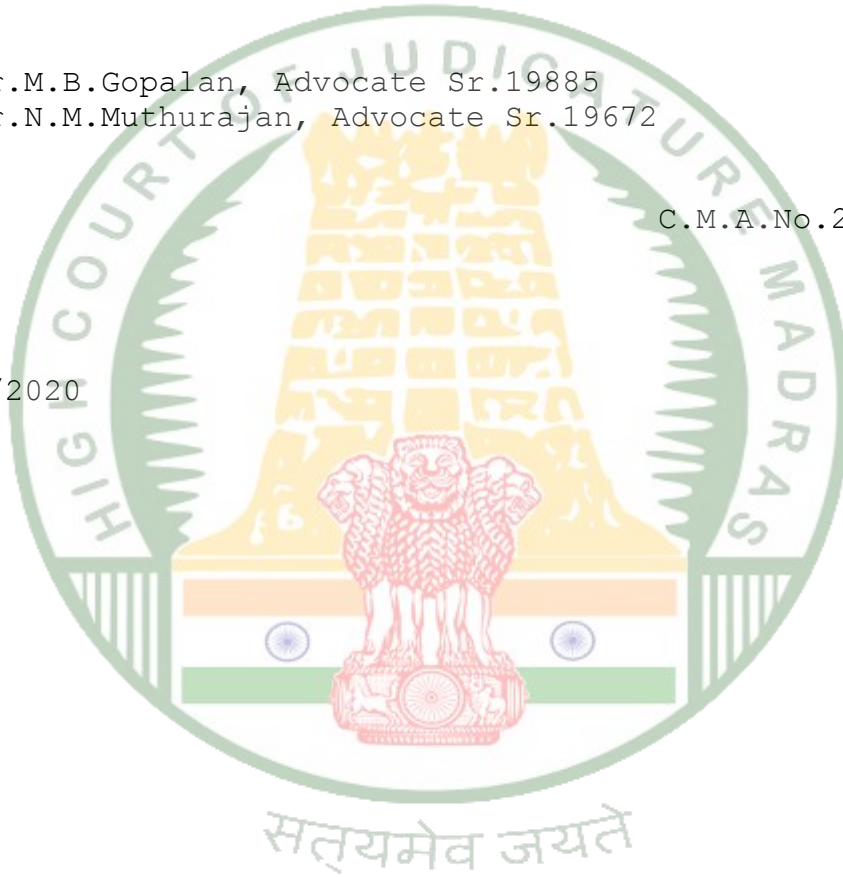
To

1. The Judge,
IV Court of Small Causes,
Motor Accidents Claims Tribunal, Chennai.
2. The Section Officer,
V.R Section,
Madras High Court,
Chennai - 600 104.

+1cc to Mr.M.B.Gopalan, Advocate Sr.19885
+1cc to Mr.N.M.Muthurajan, Advocate Sr.19672

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