

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.53 of 2012

United India Insurance Co. Ltd.,
No.7 A Varadhanar Street,
Vedhachala Nagar,
Chengalpattu.

... Appellant/2nd Respondent

..Vs..

1. Mani
2. S.K.Jeevan

...1st Respondent/Petitioner

... 2nd Respondent/2nd Respondent

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the award and Decree dated 11.08.2011 made in MCOP. No.218 of 2006 on the file of the Motor Accident Claims Tribunal, (Additional Subordinate Judge) Chengalpattu.

For Appellant : Mr.S.Arunkumar

Served - No appearance - R2
Not ready in notice regarding R1

JUDGMENT

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed by the Insurance Company challenging the impugned award dated 11.08.2011 passed by the Motor Accident Claims Tribunal (Additional Subordinate Judge), Chengalpattu in MCOP.No.218 of 2006.

2. The appellant/Insurance company has primarily challenged the impugned award on the ground that the quantum of compensation awarded by the Tribunal to the first respondent/claimant is excessive.

3. The first respondent sustained injuries as a result of an accident caused by a mini lorry bearing registration No. TN

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21 X 5099 owned by second respondent and insured with the appellant/insurance company. The first respondent/claimant has preferred a claim before the Motor Accidents Claims Tribunal, Chengalpattu in MCOP No.218 of 2006 seeking compensation of Rs.2,35,000/- for the injuries sustained by him, as a result of the accident, which happened on 21.10.2001.

4. The first respondent/claimant has sustained the following injuries as a result of the accident:-

'Head injury, skull fracture, right leg fracture, face forehead, etc.,'

5. The Tribunal, under the impugned award, directed the appellant/Insurance Company to pay a compensation of Rs.2,00,000/- together with interest and costs to the first respondent/injured claimant for the injuries sustained by him as a result of the accident.

6. The details of the award passed by the Tribunal in favour of the claimant are as follows:

Head	Award passed by the Tribunal (Rs.)
Permanent disability	1,53,000/-
Transportation	2,000/-
Extra nourishment	10,000/-
Damage to clothing	650/-
Pain and suffering	30,000/-
Attender charges	1,000/-
Mental agony	3,000/-
Medical expenses	350/-
Total	2,00,000/-

7. Heard Mr.S.Arunkumar, learned counsel for the appellant /Insurance Company and there is no representation on behalf of the first and second respondents.

8. Before the Tribunal, the first respondent/injured claimant has filed eleven documents, which were marked as Ex.P1 to Ex.P11, which includes,

a. Medico Legal Case report issued by CMC Hospital, Chengalpattu, dated 21.10.2001, which was marked as Ex.P5;

b. Discharge summary issued by Department of Neurosurgery, CMC Hospital, Chengalpattu, dated 30.10.2001, which was marked

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as Ex.P6;

c. The out patient card given by CMC Hospital, Chengalpattu, dated 05.11.2011, which was marked as Ex.P7;

d. CT Scan Report, dated 27.10.2001, which was marked as Ex.P8;

e. CT. Scan report, dated 27.10.2001, which was marked as Ex.P9; and

f. the disability certificate issued by Dr.S.Gopalan (PW2), dated 10.01.2011, which was marked as Ex.P11.

The first respondent has examined two witnesses on his side, namely, PW1- K.Mani, the claimant himself and PW2 - Dr.S.Gopalan, who examined him. On the side of the appellant/Insurance Company, neither any document was filed nor any witness examined before the Tribunal.

9. As seen from the evidence available on record, no contra evidence has been produced by the appellant/insurance company to disprove the nature of injuries sustained by the first respondent/claimant as alleged in the claim petition as well as in the oral evidence adduced by PW1 and PW2.

10. The adjudication in Motor Accidents Claim is done on preponderance of probabilities. The Tribunal, after giving due consideration to the materials and evidence available on record, has assessed the total compensation payable to the first respondent/claimant at Rs.2,00,000/- together with interest and costs.

11. This Court, after having considered the evidence and materials available before the Tribunal, is of the view that the assessment made by the Tribunal, under the impugned award, is a just compensation and it does not call for any interference.

Conclusion:

12. For the foregoing reasons, there is no merit in this appeal. Accordingly, this Appeal shall stand dismissed.

13. The Appellant/Insurance Company is directed to deposit the Award amount together with interest from the date of claim petition till the date of deposit and costs, as assessed by the Tribunal, after deducting the amount, if any, already deposited, to the credit of MCOP.No.218 of 2006, 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 amount to the bank account of the first respondent/claimant through RTGS within a period of two weeks thereafter.

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14. In the result, this appeal is dismissed. There is no order as to costs.

Sd/-
Assistant Registrar (CJ-Conf)

//True Copy//

Sub Assistant Registrar

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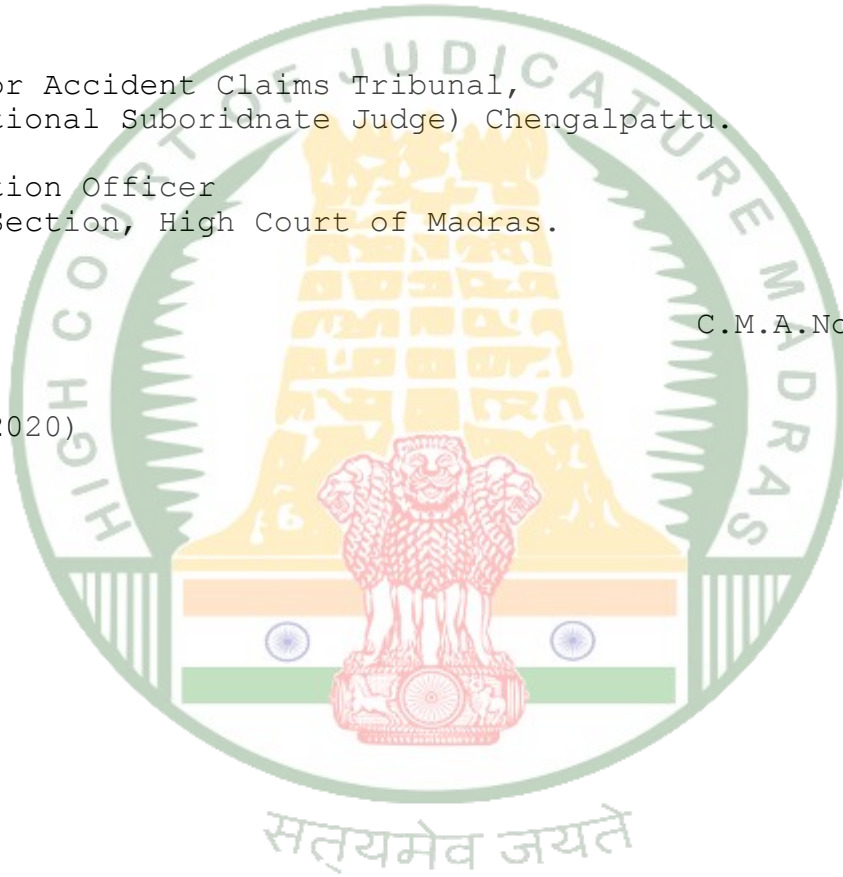
To

1.The Motor Accident Claims Tribunal,
(Additional Subordinate Judge) Chengalpattu.

2.The Section Officer
V.R.Section, High Court of Madras.

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