

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:11.09.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.2636 of 2016

and

C.M.P.No.18805 of 2016

M/s United India Insurance Co.Ltd.,
Divisional Office-I,
No.104-A, Peramanur Main Road,
Salem-7.

... Appellant/2nd Respondent

/versus/

1.Thiru.Kanagaraj ...1st Respondent/Petitioner

2.Thiru.Govindasamy ... 2ndRespondent/1st Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act against the judgment and decree passed in M.C.O.P.No.794 of 2011 on 28.04.2016 on the file of the Motor Accident Claims Tribunal (Special Sub- Judge No.II) at Salem District.

For Appellant : Mr.J.Chandran

For R1 : No Appearance

R2 : Not ready in Notice

J U D G M E N T

(The case has been heard through video conference)

This appeal is filed by the Insurance Company challenging the quantum of compensation awarded to the accident victim as excessive and exorbitant.

2.The claim petition was filed by one Kanagaraj stating that on 18.12.2010 while he was riding his motorcycle bearing Reg.No.TN-10-K-0024 near Kandampatti over bridge on the Kondalampatti bye-pass road, Salem, a lorry bearing Reg.No.KA-01-C-8812 came on the same direction in a rash and negligent manner and dashed against the motorcycle. The claimant sustained severe fracture injury and he was admitted in the hospital. At the time of accident, the claimant was 25 years old. Alleging that he was earning Rs.11,000/- per month and the accident has

caused permanent disability to him, laid a claim for Rs.5,00,000/-.

3.The Insurance Company filed counter stating that the accident occurred due to rash and negligence of the claimant. He hit the lorry on the right back side and in the investigation, the police has found that the accident occurred due to fault of the petitioner and therefore, the complaint was closed as mistake of fact. Even otherwise, the claimant is not entitled for such a high and excessive claim.

4.The Tribunal has held that even though in the investigation, the police has closed the complaint as mistake of fact, the claim of the victim cannot be rejected. The motor vehicle Inspector Report discloses damage to both the vehicles. The discharge summary issued by the hospital authority proves that the claimant has suffered fracture at left zygomatic arch, left orbit lateral wall and zygomatic buttress. The wound certificate issued by the Doctor states that the victim has sustained 25% permanent disability and the plate fixed has to be removed at the later point of time by a surgery. A sum of Rs.1,51,500/- was awarded under the different heads as below:-

Sl. No.	Heads	Amount awarded by the Tribunal Rs.
1.	Permanent disability 3000x25%	75,000-00
2.	Pain and suffering	15,000-00
3.	Loss of amenities	15,000-00
4.	Quotation given by PW-3 Dr.to remove plate	25,000-00
5.	Loss of income Rs.6000x1	6,000-00
6.	Transport expenses	5,000-00
7.	Nourishment	5,000-00
8.	Attender charges	5,000-00
9.	Damage to cloths	500-00
Total		1,51,500-00

5.This is under challenge in this appeal. The claimant has marked his driving license as Ex.P4. The wound certificate Exs.P5 and P7 indicate that the claimant has suffered fracture at left zygomatic arch, left orbit lateral wall and zygomatic

buttress. The injury has caused facial disfigurement and shortage of left eye vision. In the said circumstances, this Court finds no error in the Tribunal order awarding Rs.1,51,500/- as compensation to the claimant.

6.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

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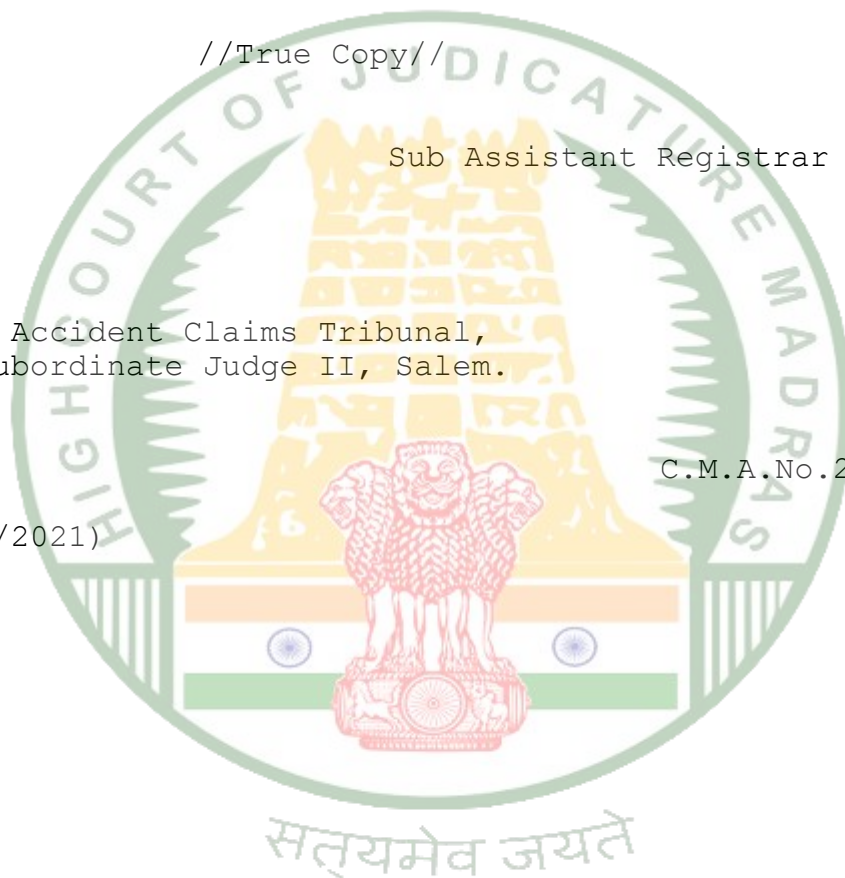
Sub Assistant Registrar

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To:
The Motor Accident Claims Tribunal,
Special Subordinate Judge II, Salem.

C.M.A.No.2636 of 2016

GMR (CO)
RMP (27/04/2021)



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