

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 31-03-2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A.No.595 of 2015

and

M.P.No.1 of 2015

1 M/S NATIONAL INSURANCE CO LTD
2ND FLOOR THANTHAI PERIYAR MARKET COMPLEX
OPP TO OLD BUS STAND I GOVIDASAMY PILLAI ST
P BOX -15 SALEM -1. ... Appellant / 2nd Respondent

Vs

1 R. RAMU @RAMACHANDRAN
S/O RAJENDRAN RES AT
KEERAPAPPAMBADI VILLAGE
STEEL PLANT SALEM-30. ...1st Respondent/ Claimant

2 V. RAJA
S/O VENKATACHALAM OLD.NO.3/153-B NEW.NO.
3/154 PAPPAN EARI THITTU VELLAKKALPATTI
CHETTICHAVADI POST SALEM DT.... 2nd Respondent/
1st Respondent

Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P.No.748 of 2012 on 04-08-2014 on the file of the learned Motor Accident Claims Tribunal (Special Sub Judge) Salem.

For appellant :: Mr. D. Bhaskaran

JUDGMENT

The appeal has been preferred by the Insurance Company against the award of Rs.3,82,000/- (Rupees Three Lakhs eighty two thousand only), awarded as compensation towards the injuries sustained by the first respondent aged 29 years, a building mason alleged to be earning about Rs.20,000/- (Rupees Twenty thousand only) per month.

2. Heard Mr. D. Bhaskaran, learned counsel for the appellant, who would submit that application of multiplier method for assessing the loss of income, especially when the claimant suffered only 20% disability, is unwarranted. However, a perusal of the award would show that the first respondent-claimant sustained a crush injury in the dorsum of the right foot, fracture in first metatarsal bone with loss of bone and a lacerated injury on the right shoulder and right knee. He took treatment as in-patient in the same Hospital from 11-05-2012 to 23-05-2012 and

underwent a surgery and fixed with K-wire and wound debridement as per Ex-P10, discharge summary. Therefore, the Tribunal based on evidence of P.W.3, Doctor, determined the disability at 25%, eventhough the Doctor assessed 30% permanent disability.

3. Since the claimant is a Mason, with fractures and surgery, it is not possible for him to restore to his normal masonry work, which he would have done before the accident. Therefore, the Tribunal is justified in applying multiplier method to assess the loss of income. Even the monthly income fixed at the rate of Rs.4500/- (Rupees Four thousand five hundred only) by the Tribunal, is too negligible and hence, the application of multiplier 17 and taking 25% disability by the Tribunal would be proper and the award of Rs.2,29,500/- (Rupees Two lakhs Twenty nine thousand five hundred only) towards loss of earning power cannot be found fault with.

4. The compensation awarded on the following heads also cannot be looked at in the higher side.

Heads	Compensation (in Rs.)
Pain and suffering	20,000
Loss and income during treatment	18,000
Food and extra nourishment	5,000
Medical Expenses	1,07,000
Transportation	2,500

Hence, the award of Rs.3,82,000/- (Rupees Three Lakhs eighty two thousand only) is confirmed at the rate of 7.5% per annum.

5. The appeal fails and the same is dismissed. The appellant is directed to deposit the entire amount towards the compensation, after deducting the amount, if any already deposited, along with interest and costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondent is permitted to withdraw the entire award amount within a period of one week. No costs. The miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

glp

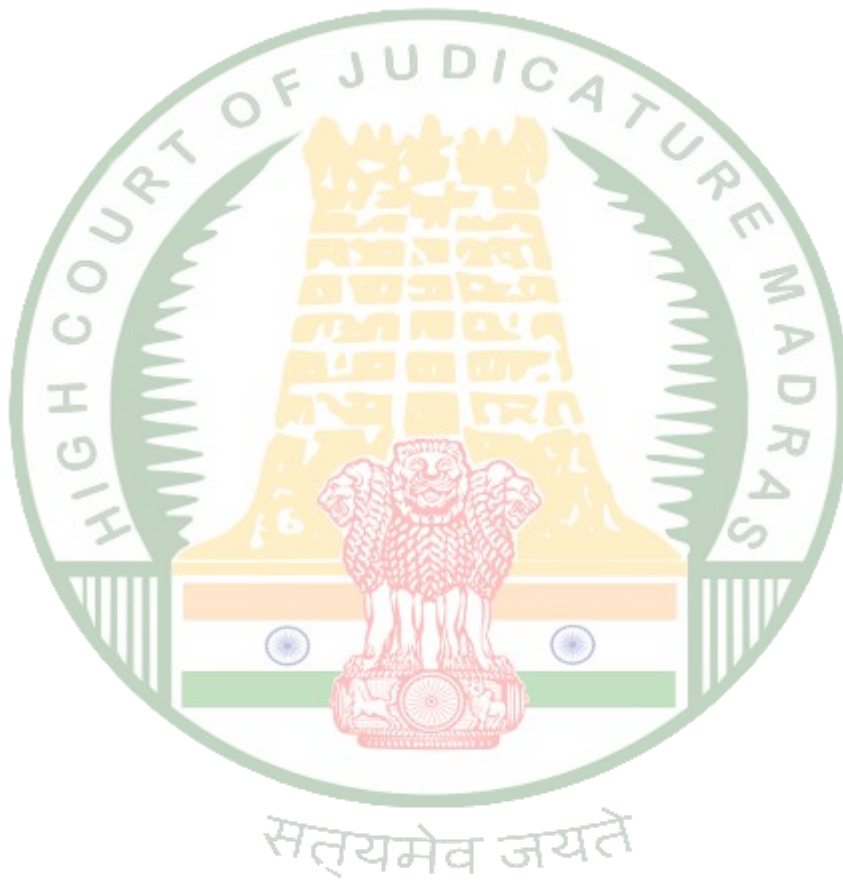
To

The Special Sub Judge,
Motor Accident Claims Tribunal
Salem.

1 cc to Mr.D. Bhaskaran, Advocate, Sr. 18319

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