CMA No.2165 of 2014
and M.P.No.1 of 2014

N. KIRUBAKARAN,J.

This matter has been brought before this Court today under the caption 'For Being Spoken to' with regard to the amount to be withdrawn by the 1st respondent/claimant.

2. The 1st respondent/claimant is present before this Court today and he submitted that he needs the entire compensation amount to be withdrawn for starting a business. Therefore, this court permits the 1st respondent/claimant to withdraw the entire amount alongwith interest, within one week from the date of deposit of the amount by the appellant/insurance company.

3. This order shall also form part of the order dated 10.04.2015. Registry is directed to issue fresh order copy .

4. The learned counsel for the 1st respondent/claimant is directed to pay the requisite court fee for the enhanced compensation amount.

27.04.2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2015

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THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.2165 of 2014
and
M.P.No.1 of 2014

The Manager
Royal Sundaram Alliance Insurance Co. Ltd.,
Southern Regional Office,
No.45 & 46, Whites Road,
Chennai – 14. ... Appellant

Vs.

1.M.V.Suresh

2.M/s.Sundarams Private Ltd,
No.2,Smith Road, Anna Salai,
Chennai-2. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988 against the decree and judgment dated 04.02.2013 made in M.C.O.P.No.14 of 2011, on the file of Motor Accident Claims Tribunal, (Sub Court), Tiruvallur.

For Appellant : Mr.S.Manohar

For Respondents : Mr.A.S.Vijay Anand for R-1

JUDGMENT

This appeal has been preferred by the Insurance Company against the award of Rs.12,56,250/- as compensation, for the injuries sustained by the first respondent/claimant, in the accident, which occurred on 18.07.2010.

2. Heard Mr.S.Manohar, learned counsel appearing for the appellant Insurance Company and Mr.A.S.Vijay Anand, learned counsel appearing for the first respondent/claimant. The only question is to be decided with regard to the quantum of compensation.

3. The claimant sustained injuries in the accident which resulted in amputation of his right leg that is above knee and his left leg is also got fractured. Surgery was conducted and IL nailing was also done. Though P.W.2 Doctor assessed 80% disability for amputation of right leg and 25% disability for fracture suffered by the claimant in the left leg, the Tribunal took 60% as disability. However, the claimant is a driver as proved by Ex.P8 driving license. Moreover, he is qualified in ITI as proved by Ex.P11. As per Ex.P11, the claimant is said to be working as JCB loader vehicle and lift operator in TVS Iyyangar & Sons Company. Though the claimant was qualified and working as lift

operator as proved by Ex.P10, the amputation of the right leg and fracture of left leg, it is impossible for him to continue his avocation as a driver and there would be 100% loss of earning power. This crucial factor has not been taken into consideration by the Tribunal. Therefore, this Court determines the loss of earning power at 100%.

4. Exs.P6, 7, 9 to 11 were marked to prove his qualification and his employment and no document was marked to prove his monthly income. Therefore, the Tribunal rightly took Rs.6,000/- as monthly income. The said determination is also in consonance with the Judgment of Hon'ble Supreme Court in **SYED SADIQ Vs. DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO. LTD., reported in 2014(1) TN MAC 459 (SC).** However, 50% of future prospects was not taken as the claimant was aged about 25 years at the time of the accident. Along with future prospects, the monthly income would be 6000 + 50% = 9000.

5. The appropriate multiplier to be applied for the age of 25 is 17 and the loss of income is determined as follows:-

6000 + 50% x 12 x 17 = 18,36,000/-

6. It is impossible for the claimant to get married with loss of right leg and fracture for the left leg and therefore, the Tribunal rightly awarded a sum of Rs.1,00,000/- towards loss of marital prospects. The Tribunal awarded only a sum of Rs.25,000/- towards pain and suffering and the same is very low compared to the injuries sustained, amputation of leg and the continuous mental agony the claimant undergoes and the same is hereby enhanced to Rs.50,000/-. The Tribunal awarded a sum of Rs.5,000/- towards attender charges and the same is hereby enhanced to Rs.20,000/-. Taking into consideration the period of treatment as in patient as well as out patient very negligible amount of Rs.3,000/- awarded towards extra-nourishment and the same is hereby enhanced to Rs.25,000/-. As per Ex.P3 Medical Bills, the Tribunal rightly awarded a sum of Rs.1,68,850/- towards Medical Bills. The Tribunal awarded a sum of Rs.20,000/- towards loss of amenities and the same is enhanced to Rs.25,000/-. The sum of Rs.12,56,250/- awarded by the Tribunal is hereby enhanced to Rs.22,24,850/- rounded to Rs.22,25,000/- along with interest at the rate of 7.5% p.a.

7. The appellant Insurance Company is directed to deposit the entire award amount along with interest at the rate of 7.5% p.a. with

costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the first respondent/claimant is permitted to withdraw the entire amount within one week.

8. In view of the above, the civil miscellaneous appeal is dismissed. No costs. Consequently, connected M.P. is closed.

10.04.2015

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Note

To

The Motor Accident Claim Tribunal,
(Sub Court)
Tiruvallur.

N.KIRUBAKARAN,J.

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C.M.A.NO.2165 of 2014

10.04.2015