

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A. No. 2298 of 2014

&

M.P. Nos. 1 & 2 of 2014

The Divisional Manager,
M/s. Oriental Insurance Co. Ltd.,
No.4, Bharathidasan Road,
2nd Floor, Cantonment, Trichy. ...Appellant/Respondent II

Vs.

1. Thiru. Marimuthu
2. Tmt. Usha Rani ...Respondents/Petitioner/Ist Respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 20.12.2013 passed in M.C.O.P. No. 234 of 2012 on the file of Motor Accidents Claims Tribunal (Principal District Judge), at Perambalur District.

For Appellant :: Mr.J. Chandran

For Respondents :: Mr.T. Gopinath for
M/s. Royan Law Associates
for R1

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs. 5,60,742/-, in favour of the 1st respondent/claimant, who sustained injuries in the accident, which occurred on 01.03.2012.

2. Heard Mr.J. Chandran, learned counsel for the appellant and Mr. T. Gopionath, learned counsel for the 1st respondent/claimant.

3. Though the learned counsel for the appellant argued on the point of negligence, it was not seriously canvassed. The main contention made by the learned counsel for the appellant is that

adoption of multiplier is unwarranted as the claimant did not undergo any surgery and he was given only conventional treatment for the injuries sustained. Therefore, the learned counsel seeks to set aside the multiplier method adopted by the Tribunal.

4. The said contention of the learned counsel for the appellant has got force. It is seen from the records that the claimant suffered fracture in his right leg; as the bones did not reunite properly, there was restriction of movement of knee over right leg by 45 degrees and the broken bone was protruding without reunion, as spoken to by P.W.4, Doctor. Though the Doctor assessed the disability at 53%, the Tribunal, taking note of the evidence of the Doctor that if proper physiotherapy is taken, the disability can be reduced by 3% to 5%, rightly, fixed the disability at 50%. However, it would not mean that the claimant is entitled to application of multiplier for calculating the compensation. Since, the injuries sustained by the claimant were treated conventionally and there was no serious loss of income caused to the claimant, adoption of multiplier method by the Tribunal is unwarranted and the same is set aside. Instead, this Court awards Rs.1,50,000/- towards "Partial Permanent Disability" @ Rs.3000/- per percentage of disability. The amount of Rs.20,000/- awarded towards "Pain and Suffering" is too low and the same is enhanced to Rs.50,000/-. Likewise, the amount awarded towards "Transportation Expenses", namely, Rs.5000/- is enhanced to Rs.10,000/- and Rs.10,000/- awarded towards "Extra Nutrition" is enhanced to Rs.25,000/-. The sum of Rs.16,742/- awarded towards "Medical Expenses" is confirmed. As this Court already awarded Rs.1,50,000/- towards "Partial Permanent Disability", the question of awarding Rs.50,000/- towards "Loss of Future Prospects" is unwarranted and the same is deleted. Since, the claimant is an agriculturist and taking into account, the amenities, which the claimant lost, this Court awards Rs.50,000/- towards "Loss of Amenities". Further, a sum of Rs.9000/- is awarded towards "Loss of Income during treatment period". In all, a sum of Rs.3,10,742/- rounded off to Rs.3,10,000/- is awarded as compensation to the claimant. The rate of interest awarded by the Tribunal at 7.5% per annum is confirmed.

5. In the result, the Civil Miscellaneous Appeal is allowed reducing the award of the Tribunal, to the tune of Rs.5,60,742/- to Rs.3,10,000/- with interest @ 7.5% per annum. No costs. Connected M.Ps are closed.

6. The appellant Insurance Company is directed to deposit the entire amount before the Tribunal, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is permitted to withdraw the entire amount within a period of one week thereafter. In case of any

excess amount lying in deposit before the Tribunal, the same shall be refunded to the appellant.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv

To

The Prl. Dist. Court

MACT , Perambalur.

2.The Section Officer, V.R.Section,

High Court, Madras

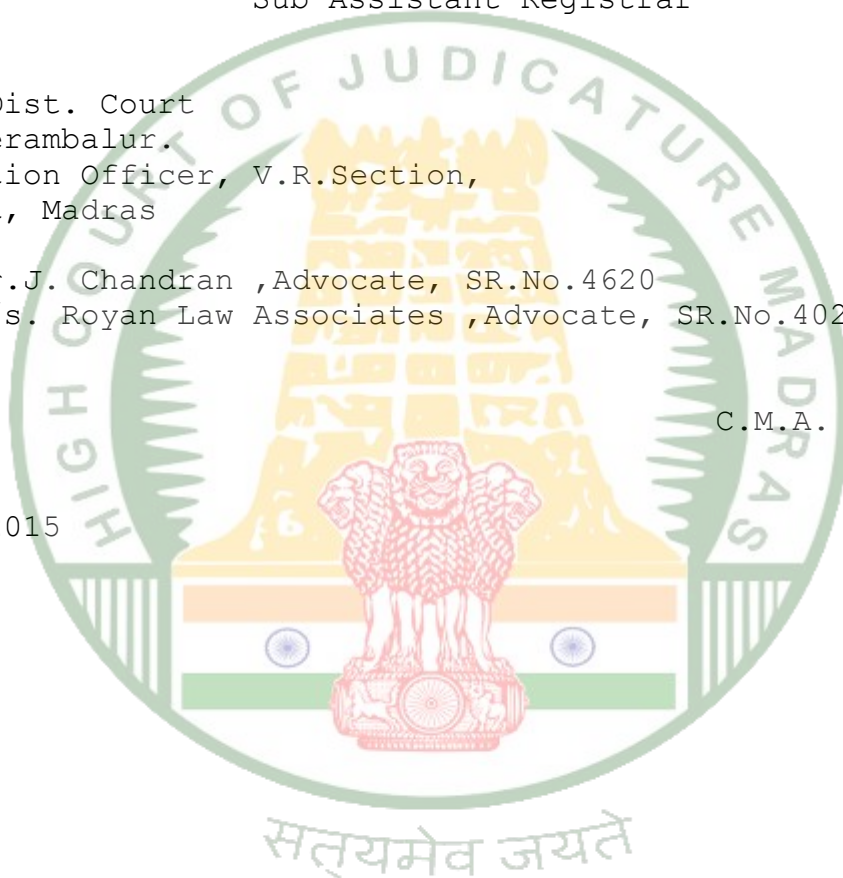
1 cc to Mr.J. Chandran ,Advocate, SR.No.4620

1 cc to M/s. Royan Law Associates ,Advocate, SR.No.4021`

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TEJ(CO)

PMK.21.3.2015



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