

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2015

C O R A M

THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI

C.M.A.No.702 of 2007

and

C.M.P.No.990 of 2007

The New India Assurance Company Ltd.,
Kumaran Road, Thirupur. ...Appellant/2nd Respondent

Vs.

1. R.Mani
2. The Chairman
Veerapandi Common Effluent,
Treatment Plant (P) Ltd.,
Veerapandi, Thirupur. ... Respondents 1 & 2/Petitioner/
Ist Respondent

PRAYER:

Civil Miscellaneous Appeal filed against the judgment and decree, dated 08.09.2004, passed in M.A.C.T.O.P.No.547 OF 2003, on the file of the Motor Accident Claims Tribunal (Additional District Judge) FTC V, Coimbatore (sitting Tiruppur).

For Appellant : Mr.P.G.Padmanabhan
For Respondent-1 : Mr.Ma.P.Thangavel
For Respondent-2 ; Ex parte

JUDGEMENT

The second respondent/insurer before the Tribunal, is the appellant herein. In this Appeal, the insurer has questioned the quantum of compensation awarded to the claimant for the injuries sustained by him in the accident.

2. On appreciation of the facts and materials available before it, the Tribunal awarded total compensation of Rs.6,37,000/- under the following heads:-

i)	Loss of Income	:	Rs.5,76,000/-
ii)	Permanent Disability	:	Rs.45,000/-
iii)	Pain and suffering	:	Rs.10,000/-
iv)	Nutrition	:	Rs.3,000/-
v)	Medical Expenses	:	Rs.3,000/-
	Total	:	Rs.6,37,000/-

3. The learned counsel for the appellant has in this Appeal raised serious objection against the fixation of the functional disability and loss of earnings at 100% and adoption of multiplier method for determining the total loss of income at Rs.5,76,000/- in the manner as stated above by the Tribunal. According to the learned counsel for the appellant, fixation of percentage of disability at 45% is without any basis and contrary to evidence and is arbitrary. Whereas, the learned counsel for the first respondent/claimant would defend the correctness of the order, having regard to the nature of the avocation of the injured, who was employed as Coolie in Building Construction.

4. It is contended by the learned counsel appearing for the first respondent/claimant before this Court that the injuries sustained by the claimant are i) Right hand numerous bone fracture, ii) Left side ribs fracture and iii) Fracture in the right clavicle bone, and the right hand bone fracture was mal-united, and Doctors assessed fracture at 45%, and considering the nature of the work carried on by the claimant, it is equated to the total functional disability, resulting in total loss of earning capacity. This Court finds that the argument so advanced herein deserves merit and consideration. As such, this Court finds no reason to interfere with the findings of the Tribunal regarding the notional disability at 100% and the determination of loss of income by applying the multiplier method. The learned counsel for the appellant is unable to make out any valid ground to interfere with the impugned award and hence, the impugned award stands confirmed.

5. In the result, this Civil Miscellaneous Appeal stands dismissed. Time for deposit of entire award amount, if not so far deposited, is four weeks from the date of receipt of a copy of this judgment, and on such deposit, the claimant/injured is permitted to withdraw the entire amount by filing Cheque Petition before the Tribunal. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CSIII)
dt:25/09/2015

True Copy

Sub-Assistant Registrar

To

1.The Motor Accident Claims Tribunal
(Additional District Judge) FTC V,
Coimbatore (sitting Tiruppur).

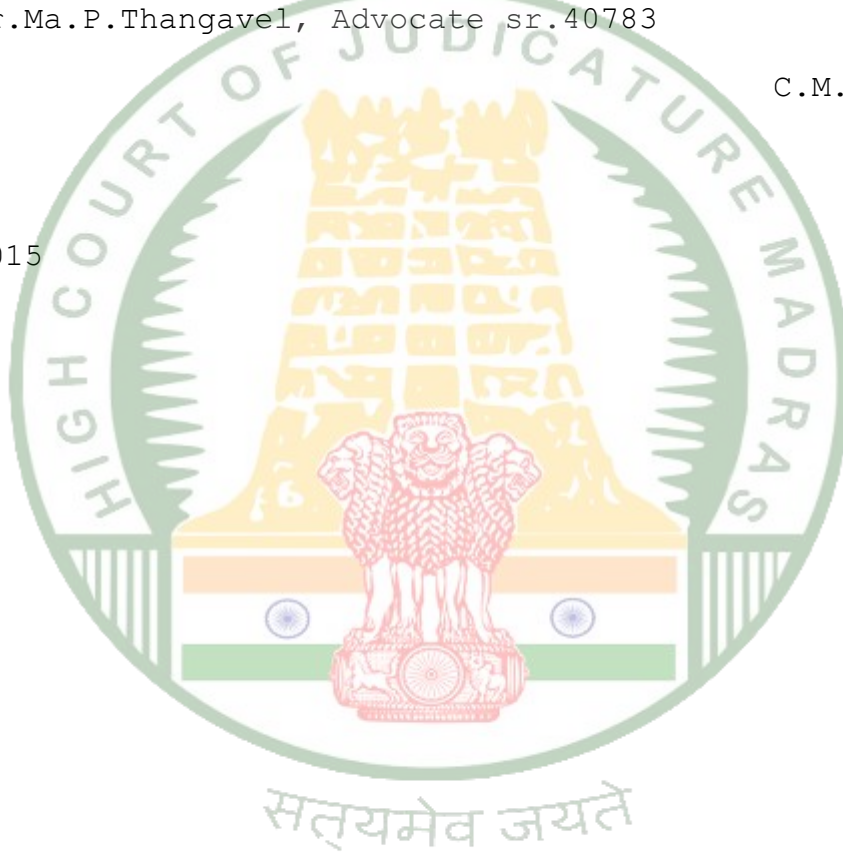
2.The Section Officer
V.R.Section,
high Court, Madras

+lcc to Mr.P.G.Padmanabhan, Advocate sr.40664

+lcc to Mr.Ma.P.Thangavel, Advocate sr.40783

C.M.A.No.702 of 2007

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