



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.DEVADASS

C.M.A. No.903 of 2015

and

M.P.(MD).No.2 of 2015

K.Velavan

... Appellant / Petitioner

-vs-

1.R.P.kadarkaraivel

2.The Branch Manager,
United India Insurance Co., Ltd.,
No.924-A, Main Road,
CCC Complex,
Kovilpatti.

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, against the judgment and decree passed on 30.01.2013 in M.C.O.P.No.678 of 2010, on the file of the Motor Accidents Claims Tribunal (Additional Sub Judge), Tirunelveli.

For APPELLANT : Mr.T.Selvakumaran
For R2 : Mr.V.R.Subramaniam

J U D G M E N T

The claimant in M.C.O.P.No.678 of 2010, has directed this appeal only as against the quantum of compensation awarded to him by the Motor Accident Claims Tribunal/(Additional Sub Judge), Tirunelveli.

2.The Tribunal considering the oral and documentary evidence awarded him a total compensation of Rs.4,35,785/-.

3.The learned counsel for the appellant would contend that the injured was 35 years old. He has been a Video Grapher. Run his Video shop in Vilathikulam. However, the Tribunal had taken only a low income viz., Rs.3,000/- per month.

4.The learned counsel for the Insurance Company contended that the Tribunal has taken a reasonable income.

5.Considering the materials on record and the evidence of P.W.1, it is seen that the appellant is a Video Grapher and he has been wanted for many functions. They are earning considerable amount as income. But, it is not steady. There are fluctuations. In such circumstances, he would earn a minimum of Rs.6,000/- per month. Accordingly, we revise loss of earnings for three months as (Rs.6,000/- x 3) Rs.18,000/-. Disability compensation revised to (50% x Rs.3,000) Rs.1,74,000/-. Rs.1,000/- and Rs.2,000/- awarded towards transportation charges and extra nourishment charges are raised to Rs.3,000/- and Rs.5,000/- respectively. The tribunal ought not have granted Rs.5,000/- towards mental agony when compensation for pain and suffering has been granted. However,



considering the nature of injuries suffered by the him, we raise the compensation for pain and suffering to Rs.25,000/-.

6.The evidence of P.W.3 and his medical certificate shows that the appellant cannot use his limbs as before. Thus there is a loss of amenities of live under this head we award him Rs.15,000/-.

7.Now, the revised compensation is as under:

Heading	Awarded by the Tribunal	Awarded by the High Court
Loss of Income for 3 months at Rs.6000/- per month	Rs.9,000/-	Rs.18,000/-
Disability	Rs. 1,16,000/-	Rs. 1,74,000/-
Pain and Sufferings	Rs. 15,000/-	Rs. 25,000/-
Transportation Charges	Rs. 1,000/-	Rs. 3,000/-
Extra-nourishment	Rs.2,000	Rs. 5,000/-
Medical Bills	Rs.2,87,785/-	Rs.2,87,785/-
Loss of Amenities	Nil	Rs.15,000/-
Loss of Mental Agony	Rs.5,000/-	nil
Total	Rs.4,35,785/-	Rs.5,27,785/-

8.In the result, the award of the Motor Accident Claims Tribunal is modified to Rs.5,27, 785/- with interest at 7.5% p.a., from the date of petition till deposit and with costs. The award amount shall be deposited within four weeks from the date of receipt of a copy of this Judgment, less amount, if any already deposited and on such deposit, on filing appropriate application, the Tribunal will disburse the amount, less amount, if any already withdrawn.

9.Accordingly, this civil miscellaneous appeal is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

The Assistant Registrar(co)

/True copy/

Sub-Assistant Registrar

To:

1.The Principal District Judge, Tirunelveli.

2.The Motor Accident Tribunal

(Additional Sub Judge), Tirunelveli.

+1cc to Mr.T.Selvakumaran, Advocate SR.no.48778

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and

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