

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 25.11.2016****Coram:****THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM****C.M.A(MD)No.149 of 2014****and****M.P(MD) 3 of 2014**

National Insurance Company Limited,
Represented by its Divisional Manager,
K.R.T. Building,
33, Promenade Road,
Tiruchy.

.. Appellant/R 2

-Vs-

1.T.Sudhakar

.. R 1/Petitioner

2.K.Kaleel Rahman

R 2 remained exparte before the Tribunal. .. Respondents No.2/ R1

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 31.08.2012 and made in MCOP.No.231/2006 on the file of the Motor Accident Claims Tribunal/III Additional Sub-Judge, Trichy.

For Appellant : Mr.R.Srinivasan

For R1 : Mr.N.Sudhagar Nagaraj

JUDGMENT

The appellant/National Insurance Company Ltd., filed the present C.M.A(MD)No.149 of 2014, challenging the award passed in M.C.O.P.No.231 of 2006 by the Motor Accidents Claims Tribunal/III Additional Sub Judge, Trichy dated 31.08.2012.

2.It is a case of an injury and the accident occurred on 03.08.2005 at about 02.00 a.m. The injured victim filed an application before the Motor Accidents Claims Tribunal/III Additional Sub Judge, Trichy, for compensation and the Tribunal, considering the facts and circumstances of the case, awarded Rs.5,28,200/- towards the total compensation. Challenging the same, appellant/National Insurance Company filed the present appeal only on the ground that the original claim was filed by the respondent / claimant only for Rs.3,00,000/- and the tribunal awarded Rs.5,28,200/- as total compensation and therefore, the tribunal ought not to have enhanced the compensation *suo moto* beyond the claim made by the respondent/claimant.



3.The learned counsel appearing for the first respondent/claimant contended that the grounds raised by the appellant is not maintainable in view of the ratio in the catena of judgments held that the quantum of compensation can be enhanced by the Court considering the facts and circumstances of the other hardships caused to the victim.

4.The Honourable Supreme Court of India in many number of decisions, emphasized that it is the duty of the Court to see a just compensation is awarded to the victim, who sustained injuries and died on account of the accident. When the principle of just compensation is the policy to be adopted by the Court while awarding compensation, the tribunal has not committed any error in awarding the compensation over and above the claim amount. In view of the legal dictum, this Court is not inclined to consider the case of the appellant/Insurance Company.

5.Accordingly, this Civil Miscellaneous Appeal is dismissed and the award passed in M.C.O.P.No.231 of 2006 by the Motor Accidents Claims Tribunal/III Additional Sub Judge, Trichy is confirmed.

6. The appellant / Insurance Company is directed to deposit the entire award amount with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not deposited. On such deposit is being made, the first respondent/claimant is permitted to withdraw the deposited amount through RTGS, by filing necessary applications before the Tribunal.No costs. Consequently, connected miscellaneous petition is closed.

Sd\-

Assistant Registrar (CO)

\\True copy\\

Sub-Assistant Registrar

To

The IIIrd Additional Subordinate Judge,
Motor Accident Claims Tribunal, Trichy.

Copy To:

The Record Keeper, V.R Section,
Madurai Bench of Madras High Court, Madurai.

+1CC to N.SUDHAGAR NAGARAJ, Advocate, SR No.73097

skn

vb/jc/24.04.2017/2P/4C

C.M.A(MD)No.149 of 2014

and

M.P(MD) 3 of 2014

25.11.2016